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THE BALLOT

AND

CORRUPTION AND EXPENDITURE AT ELECTIONS.

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A COLLECTION OF ESSAYS AND ADDRESSES OF DIFFERENT DATES

BY

W. D. CHRISTIE, C.B.,

Formerly Her Majesty's Minister to the Argentine Confederation and to Brazil; Author of "Life of the First Earl of Shaftesbury."

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TO THE

REV. FREDERICK DENISON MAURICE,

Professor of Moral Philosophy in the University of Cambridge.

My dear Mr. Maurice,

I have been chiefly moved by your approval, and by that of Mr. Mill, to hope that the following collected Essays may be usefully republished on the eve of a session of Parliament in which the whole subject of Ballot and election abuses and election inquiries is to come on for discussion and legislation.

The last of these Essays has appeared within the last two years; the first was published thirty-two years ago, at the time when I was first known to you, and when I remember the strong influence on young minds both of Oxford and Cambridge of some of your earliest writings,—then not so widely known as your name is known now, after a long

term, poorly enough requited, of good works and learned labours and firm unostentatious battling for conscience.

It may not be known to some even whom the subject of purity of elections specially interests, that you have found time, amid your many professional and literary labours and various works of philanthropy, to write on the law and practice of elections.[1]

I felt that you did me a great honour, some years ago, when you kindly came forward to co-operate with me in an effort for reform of elections; and I feel greatly honoured now by being permitted to connect again my name with one so excellent and eminent as yours by dedicating to you this volume.

In view of the renewed discussion of the Ballot which is near at hand, I shall do a good service by making known that your name is not enlisted against that much-abused measure.

I am able also to claim the honour of your agreement with me in opinion that many other

[1] "Corruption at Elections," in *Macmillan's Magazine*, July 1864. "The Means of checking Bribery and Corruption in the Election of Members of the House of Commons," a Paper read before the Juridical Society, 1866.

measures for reform of elections should be passed, in addition to the Ballot.

The prohibition of paid canvassing was omitted in Mr. Forster's Bill of last year. The tone in which Mr. Forster spoke of paid canvassing leaves no ground for doubt that he himself is favourable to legislation against that evil, and gives much reason to hope that the Bill of the coming session will not be chargeable with the same fault of omission. Baron Martin suggested to Lord Hartington's Committee of 1868-9 that paid canvassing should be prohibited.

The Bill of last year did not propose to give effect to a recommendation of the Committee of 1868-9, that the use of public-houses for committee rooms should be prohibited. The same Committee had abstained from recommending the closing of public-houses on the days of nomination and polling. It is to be hoped that the new Bill will include provisions for both objects. Baron Martin said before the Committee: "I have a very strong opinion indeed that the public-houses ought to be closed on the day of polling. I think the quantity of drink on the day of polling, and the state in which many voters were alleged to have come up to vote,

was perfectly scandalous; they were so drunk in two or three cases that they did not know who they came to vote for. In one case, at Norwich, the voter would insist on voting for Patterson and Steward, the brewers there." So again, of using public-houses for committee-rooms the same Judge said: "I think that ought to be stopped. I am satisfied that it is made a pretence for treating." Mr. Justice Willes had some doubt as to the practicability of dispensing with public-houses for committee-rooms, but none as to the good effect in the way of increasing purity of election, and he seemed to fear that in many places no other rooms might be to be found; but Mr. Charles Villiers, a member of the Committee, seasonably asked the Judge, "If it was forbidden, do not you think that rooms would very soon be provided for such occasions?" The Judge replied: "I have not sufficient practical knowledge to answer that question, but I would, if it were practicable, prohibit their being held at public-houses." There can be no doubt that demand will quickly produce a supply of suitable rooms and buildings.

Mr. Forster's Bill proposed to abolish public nominations, but not public declarations of the poll.

The latter ceremony is as often, and as much, a scene of drunkenness and rioting, and as useless for any good object, as the former. There are boroughs—as Cambridge, for instance—where the public declaration of the poll is made on the very day of polling, in the evening, in order to avoid a second day of disturbance. It is the practice also in the borough of Cambridge for the losing candidates and their friends to absent themselves from the public declaration of the poll, in order to diminish rioting. In large constituencies, the votes cannot of course be counted up in time for the public declaration on the day of polling. In the late School Board elections there was neither public nomination nor public declaration of the poll; and why should it not be the same, for the sake of decency and order, in parliamentary elections?

The Act of 1868, under which Judges of the Superior Courts of Westminster have been lately triers of election petitions, expiring at the end of the coming session, it will be for Parliament to determine in this session whether the present system is to be continued or a change to be made.

My belief is that there should be substituted for the present system one of effective supervision of

elections during their progress, and of investigation and judgment by competent barristers immediately after the poll and before the return, with a power of appeal from the barrister's return to a Judge or Judges of the superior Courts. Such a plan is explained and advocated in the fourth Essay of this volume, and was earnestly recommended by Mr. Mill while the present Act was passing through the House of Commons.

To set the superior Judges to work at the primary election trials is like "cutting blocks with a razor." To send them about the country to grope into all the elements of election chicanery and filth is to use them in a manner unworthy of their high offices and duties and qualifications. If an election petition is treated as a private lawsuit, the public interest in the matter is not represented, and discovery of corruption becomes mere matter of accident or of private interest. The increased assimilation in practice of an election trial to a private lawsuit under the new system—as, for instance, by requirement of particulars of charges of corrupt practices to be delivered before trial, and by the more or less rigorous application of the ordinary rule of costs—has increased discouragement and

difficulty for petitioners; and the discovery of corruption depends practically on the willingness of unsuccessful candidates and of their friends to incur the expense, labour, risk, and invidiousness of petitioning. What is needed is a suitable machinery for preventing corruption and lavish expenditure while the election is going on, and for detection of malpractices not only on the spot, but also at the moment, before zeal has subsided, and when there has been no time for culprits or witnesses to be spirited away, by a lawyer with general powers, as to whom there will be the safeguards of legal competency and of power of appeal to a superior Judge or Judges.

The most valuable part of the evidence presented by the Committee of 1868-9 is, as was to be expected, that of the three Judges whom they examined—Baron Martin, Mr. Justice Willes, and Mr. Justice Blackburn. It is refreshing to read their hearty anathemas against corruption and profligate expenditure. They all speak under a painful feeling of their inability, under the powers given them, or in the necessary conditions of their high judicial position, to grapple with all the evils of which they obtained knowledge. They have recommended various im-

provements in the Act under which they have tried petitions, which will need to be attended to by the Legislature, whatever tribunal is next devised. The following recommendations were made :—

1. That power be given to the Judges to void a seat where there has been unreasonable expenditure ; as at Westminster, where Baron Martin, in whom zeal against corruption was not wanting, did not find himself empowered to unseat Mr. W. H. Smith, who admitted an expenditure of 9,000*l.* ; or at Youghal, where an expenditure of 5,000*l.* in a small borough would not have sufficed to enable Mr. Justice O'Brien to unseat Mr. Weguelin.

2. That the Judges be enabled to unseat for an extensive practice of illegalities, showing design to violate the law ; as in conveyance of voters, voting of employed persons, &c.

3. That whereas now, under the 23rd section of the Corrupt Practices Act of 1854, the giving of refreshments to voters on the days of nomination and polling, on account of having polled or being about to poll, is illegal, and subject to a fine of forty shillings if sued for, there should be a more stringent prohibition of refreshments, and for a whole week before the election ; and that giving

refreshments to voters during the previous week by a candidate or agent should upset the election.

4. That more stringent provisions should be made for ensuring accurate and complete returns of expenses from candidates' agents, and that these should be delivered before the trial of a petition. On this point Mr. Justice Blackburn specially dwelt. He said, "I would make it the law that the period for petitioning should be extended till after the return of the accounts: and what I think is even more important, I would make it a substantive ground for unseating a member if he or his agents wilfully kept back any vouchers, or any expenses which they had incurred or paid."

I have already mentioned the recommendations of Judges for prohibition of paid canvassers, for prohibition of committee-rooms, and of meetings at public-houses, and for the closing of public-houses on the day of polling.

Mr. Justice Blackburn points out in a passage of his evidence how the Judge's power of discovery is limited by the lawsuit character of a petition; how the parties can at their will blindfold the Judge. "A Judge cannot know anything about the matter, except what is brought before him, and it does not

always follow that the persons who impugn the election are willing to bring it before him." In another place the same Judge expresses the opinion that a public prosecutor would be desirable, if practicable; "it would remove one very considerable imperfection in election petitions at present, namely, that you can only get the evidence which the party chooses to produce."

A remark of Mr. Justice Willes at the end of his judgment on the Coventry petition is very interesting, as showing how the interest of the public in an election trial dawned rather late on that acute and public-spirited Judge's mind, and as suggesting how the public ends of election inquiries ought to be further considered in legislation on this subject. The three Judges of 1869 had agreed in the outset to follow the rule of the Common Law Courts as to costs, that they follow the event. Mr. Justice Willes announced this rule and acted on it in the first election trial, that of Windsor, decided on January 15, 1869. But by the seventeenth of February the claim of a third party, the public, had become evident to Mr. Justice Willes's mind; and he thus candidly confessed himself:—

"As a rule, costs ought to follow the event, and in ordinary actions in the courts to which I have been accustomed, they almost invariably follow it, the exceptions being rare. When I set off upon this circuit, I certainly did so with the intention of acting upon my old notions, and of dealing with these cases as if they were ordinary suits between party and party. I have, however, become deeply impressed with the feeling that there is a third party, no less interested than those who are immediately engaged in the petition, and that I ought in each case to consider, not merely whether the petition has failed or has succeeded, but whether, upon the whole, I think there are grounds, not founded merely upon the belief of such witnesses as many of those who have been called before the court upon this occasion have displayed themselves to be, but founded upon the very character and history of the transaction, upon which it was for the public benefit that the petition should be presented, and upon which I think that the petitioners have had reasonable and probable cause for instituting this inquiry, which I am satisfied that if I had been in their place I should, without anger and without prejudice, have thought it right should be instituted. I say no more upon that point unless it is desired that I should do so. I think this is a case in which a petition has been most reasonably

presented and prosecuted, and therefore I say nothing about the costs, although the petition has in the end, in my mind, altogether failed of arriving at the result of unseating the members."

No system of election trials which makes all discovery dependent on the action of petitioners, can satisfy the public interest, or even approximate to what is needful for promoting purity of election.

There is a clause in the "Parliamentary Elections Act" of 1868, which, if it really means what it seems to imply, should be sufficient to ensure effective inquiry by a Commission in most cases where corrupt practices have extensively prevailed. Clause 56 of the Act provides that if, on a petition presented within a certain time, signed by any two or more electors, alleging that corrupt practices extensively prevailed, or that there is reason to believe that they so prevailed, an address be presented by both Houses of Parliament, praying the Crown to appoint a Commission to inquire; and if Commissioners be appointed, they shall inquire in the same manner as Commissioners appointed after report of a Judge to the same effect on trial of an ordinary election petition. This, if it means anything, must mean that a petition of two or more electors, affirm-

ing extensive prevalence of corrupt practices or belief in such prevalence, is to lead to an address which will lead to a Commission of searching inquiry. The *if* can only have been meant to avoid appearance of binding Parliament and the Crown. If the Legislature had intended to leave action on the petition virtually open and subject to parliamentary debates, the clause might as well have been omitted. Not one single case has yet occurred of such a petition. It has been possibly thought that this clause was not intended to give any two electors the power of ensuring a Commission of inquiry by a petition unaccompanied by any security for costs. But as the clause stands, and as it ought to be interpreted, it is in the power of any two electors to procure a full inquiry by petitioning, without expense or risk of expense; and if this power is admitted and generally used, no better security against corruption than it would afford is needed.

But I can hardly believe it possible that the two Houses of Parliament would agree to address the Crown for a Commission, the costs of which are to be defrayed by the accused borough or county, on the mere allegations of two electors, unchecked by

requirement even of security for costs if the allegations are unfounded.

We are probably agreed on the great desirability and importance of the measure, which was first proposed by Professor Fawcett, and was included in Mr. Forster's Bill of last year, but was not very strenuously defended by the Government, for relieving candidates of the public expenses of elections, and placing these on the public rates. Such a measure will not only be useful in itself, but further useful as giving an example and an impulse for entire change of that tone of thought which regards a seat in the House of Commons as the rich man's privilege and the pastime of high position; which makes the House of Commons to a great extent less a place of earnest business than a club for the wealthy and a lounging-room for the fashionable; which upholds a high scale of expenses as a sort of property qualification, obstructing the entrance into Parliament not only of honest and intelligent working men, but also of gentlemen of culture, of independence, and of leisure, who possess only moderate means; which thus injuriously restricts the area of choice of our legislators, and in various ways

gives advantage—to use the emphatic and memorable words of Mr. Justice Willes before the late Committee—"to the rich dullard over the poor man of intellect."

Believe me,

My dear Mr. MAURICE,

Yours very sincerely,

W. D. CHRISTIE.

December 20, 1871.

I.

AN ARGUMENT IN FAVOUR OF THE BALLOT.

INTRODUCTORY NOTE.

THE following essay was published as a pamphlet in the year 1839. It was the production of a young writer. In now reprinting it, I have made changes in words and style, and have here and there omitted passages, but I have made no substantial change in the argument. Parliamentary election committees, having first been improved from what they were in 1839, have latterly been superseded by trials by Judges. This change has occasioned change of phraseology in the parts of the essay dealing with scrutinies after elections. The present election tribunal is greatly superior to the old one, even in its latterly improved state. So far, there is diminished strength in the part of the argument resting on the evils of scrutinies: but that is a trifling element in the question.

Though scrutiny generally must vanish after the adoption of Ballot, I am not sure that power of upsetting an election should not be reserved in cases where the number of bad votes given may exceed the majority of the successful candidate over a petitioner: but such cases will necessarily be rare.

When this essay was first published, in 1839, Mr. Grote was the champion of the Ballot in the House of Commons. In that year the debate on the Ballot had been unusually

interesting, and the minority in its favour had been larger than ever before. When Mr. Grote first brought forward Ballot in 1833,—the first year of the reformed Parliament,—one hundred and six had voted with him.' This number had steadily increased till, in 1839, the minority was two hundred and seventeen. The Cabinet of Lord Melbourne had decided, in 1839, to make Ballot an open question. Mr. Macaulay, just returned from India to the House of Commons, had made his first speech in the Ballot debate, and had powerfully advocated the measure. The great progress of the Ballot in public opinion was attested by increased activity of opponents, and by the appearance of Mr. Sydney Smith's pamphlet, the wit and fun of which have done more to discredit the Ballot than any serious arguments.

I extract from the preface to the first edition of my pamphlet some remarks on Mr. Sydney Smith's witty production. "Its desultory, discursive method is singularly ill-adapted for the full and fair discussion of a question like the Ballot. Here nice moral considerations are to be weighed, and tendencies to evil scrupulously compared with tendencies to good. It will not do in such a case to pick topics, merely as they happened to be most amusing, and for the same reason to confine one's view altogether to one side of the account. This is not the way, most especially in the case of a question like the Ballot, to travel towards truth or to work conviction."

In the same preface I mentioned with the respect due to them, Mr. James Mill's powerful essays,[1] and Mr. Albany Fonblanque's many brilliant articles in the *Examiner* newspaper, in favour of the Ballot.

[1] "Ballot," in the Supplement to *Encyclopædia Britannica* (1824); *Westminster Review*, vol. xiii. (1830); *London Review*, vol. i. (1835).

Time has not diminished my sense of the honour done me by Mr. Grote's approval of this essay on its first appearance thirty-two years ago; and among others who conveyed to me their approval of the arguments, and who have since passed away, were the accomplished Professor Empson, afterwards editor of the *Edinburgh Review*, Mr. John Allen of Holland House, and Mr. H. G. Ward, member for Sheffield (afterwards Sir Henry Ward), who, when Mr. Grote had ceased to be a member of the House of Commons, succeeded him in 1842 as the proposer of Ballot.

AN ARGUMENT, ETC.

OF those who possess the elective franchise in England, a large number are more or less dependent on others for their livelihood and happiness. Tenants are dependent on landlords, servants on masters, tradesmen on customers; and over and above this, all who are poor, or to whom pecuniary assistance is likely to be grateful, may be considered more or less dependent on others with whom riches abound, and who, if a purpose is to be gained, are likely to be willing to be generous with their abundance. This state of dependence of a large number of electors thwarts very often, and to a very considerable extent, the purpose for which the elective franchise is bestowed, and turns what might be a fruitful blessing into a mischief. Under a system of election in which every man may see how every other man votes, intimidation is extensively exercised by landlords and masters and customers, and bribery widely prevails. So far as this is the case, the purpose for which the elective franchise is bestowed is thwarted. It is intended by the state, that each man to

whom the elective franchise is entrusted, should exercise his own judgment on the merits of the candidates between whom he has to choose, and vote for him whom, on the several grounds of honesty, intelligence, and the general tenor of political opinion, he himself holds most worthy of a seat in Parliament. So far, then, as votes are given, not in accordance with the opinions of the voters, but in order to avert injury or in return for a bribe, so far does the existing scheme of representation fail of being carried out, and so far is the state foiled. But the evil does not end here. The possession of the elective franchise, provoking thought on political questions, and tending, through the power which it confers, to foster the feeling of self-respect, may be an effective engine for the mental and moral improvement of the humbler classes of society. But when men are forced to vote at the bidding of a superior, or tempted to sell their independence for a bribe, the elective franchise ceases to be a means of education, for it is exercised blindly and unthinkingly at another's behest; and further, instead of raising, it has become an nstrument to degrade, the character of the voter, turning him into a slave or staining his soul with venality. Nor do the intimidator and the briber come away themselves unscathed.

It is desirable that some measure should be resorted to, which may remove or diminish the practice of intimidation and bribery, from which these evils ensue. And this is no question of party, nor one on which those who are for, and those who are against, an extension of popular power, must necessarily differ. It is to be presumed rather that

persons of all parties will join in supporting such a measure, if only they agree in thinking that the will of the state should be fulfilled, and that it is better to have a system of election which may raise, than one which must degrade, the character of the humbler classes of society, and provided it can be shown that no evil or evils will be entailed by the adoption of such a measure sufficiently large to overbalance the good that it is likely to produce.

It may seem to some that penal enactments against intimidation and bribery, and a properly contrived system of election-law, though these cannot be expected entirely to remove, may considerably mitigate the evil. There is no doubt that, as regards bribery, much may be done by their means. Yet, the best-contrived laws always admitting of evasion and escape, and the preventive tendency of these particular laws being sure to be impeded by the eagerness with which men seek for a seat in Parliament, while, on the other hand, little assistance can be looked for from any strong prevailing feeling as to the immorality of bribery, much, even as regards bribery, would still remain undone. The most, indeed, that can be said of punishments, even as regards bribery, is that they would be an useful auxiliary to any other more effectual mode, if any such can be suggested, of mitigating the evil. As regards intimidation, penal enactments or election-laws can do literally nothing. You cannot interfere between a landlord and his tenant, or between a master and his servant; nor can you say to a customer, "You shall distribute your custom equally and impartially between your political friends and foes—we will punish you if you change your

baker or butcher on the ground of his vote." And though power may be given to cancel or alter a return clearly affected by intimidation, yet it is so easy to give a threat the form of a request, making the black seem comely, and to find pretexts for the ejection of a tenant, or the dismissal of a servant, or the abandonment of a tradesman, that, when a motive exists for caution, it would be very seldom that this power could be exercised.

Declarations, either by a candidate that he has not bribed and knows nothing of bribery on the part of friends, or by any persons having influence of any kind at any election (if it be possible to obtain declarations from these) that they have not intimidated, admit so easily of evasion that they are able to do little. So far as they go, they may be useful auxiliaries; but he must be moderate indeed in his hostility to intimidation and bribery who would confine his hopes to their sole unassisted operation.

Unable, then, to satisfy ourselves with the degree of efficacy possessed by such expedients as have now been mentioned for mitigating the evil, we are led to turn our eyes elsewhere. What if votes were given not openly, but secretly? It is clear that a voter could not be made to vote in compliance with a threat, if he had the power to conceal his vote from the intimidator; and it is clear also that were a man who had received a bribe able to vote secretly, he would have the opportunity of foiling the briber. The concealment of the vote would thus, to say the least, place difficulties in the way of intimidation, and diminish the inducement to bribery. As elections are now managed by open voting, the intimidator and briber have

full play; they see how the vote is given, and can instantly follow up an obnoxious vote by fulfilling the threat or by withholding the promised bribe. If secret voting were substituted,—if a dependent voter could thus prevent an intimidating landlord or master or customer from knowing how he voted, unless he himself chose to reveal it, obliging him otherwise to resort to indirect and laborious and not always gentlemanlike modes of arriving at the secret, and after all to get no further than suspicion; and if a poor man, who may have been bribed, could also thus make it a matter of uncertainty to the briber that his vote had been given in accordance with the briber's wishes; we may expect —unless men are likely to spend money without security of getting what they have paid for, and unless the gentry of England are likely to turn generally spies and eavesdroppers and suborners of eavesdropping, and become tyrants on suspicion—that intimidation and bribery, and the evils which spring from them, would be very considerably mitigated. We cannot expect from secret voting an entire removal of the evil. But simple and direct in its operation,—tending to impede the intimidator and briber in the doing of the foul deed, instead of punishing after the deed is done, and acting only by example,—and efficacious alike against intimidation and against bribery, this expedient may be expected to mitigate the evil to a very considerable extent. Combined with the other expedients which have been mentioned, it may be expected to mitigate the evil to an extent short only of entire removal. Thus efficacious, then, against intimidation and bribery, it is necessary to inquire whether secret voting

will introduce any evil or evils sufficiently large to overbalance the good that may be expected from it.

It is my object to explain the merits of secret voting, under its familiar name of BALLOT. This will be done almost entirely in the way of answering and extenuating objections. The nature of the question, in which all that concerns the goodness of the end, and the mode in which secret voting operates as a means, lies within a nutshell, renders the adoption of this defensive method imperative.

The objections brought against secret voting, or Ballot, may be conveniently considered under two heads. First, there are objections against its practicability; and secondly, objections against its beneficial tendency. Adapting my argument to this twofold division of objections, I shall first endeavour to prove that elections can be managed with secret voting or by Ballot, or, in other words, that secret voting, or Ballot, is practicable. Having established its practicability, I shall proceed to combat such objections as tend to disparage its efficacy or to impute to it the production of mischief, hoping to prove that a very large balance of good will result from the adoption of secret voting or Ballot.

I.—First as to the practicability of secret voting. It is sometimes contended that secret voting, whatever might be the amount of good to be derived from it in the way of mitigating intimidation and bribery and their attendant evils, would derange the machinery of elections, making it altogether impossible to be secure of proper returns. Those by whom this is contended consider secret voting

incompatible with precautions to prevent unqualified persons from voting, or again, in cases where more than one member is to be elected, to prevent qualified voters from giving more than one vote to any one particular candidate; and they think also that it will enable returning officers and their clerks to tamper with the votes without certainty of detection. It is for these reasons that the Ballot is sometimes pronounced impracticable as a mode of voting. Were the reasons valid, there is no doubt that it would be so; and further, there is no doubt that a mode of voting which foiled so essentially the object of elections, must, no matter how efficacious in mitigating the evils of intimidation and bribery, at once be abandoned. It may be shown, however, that fears as to the incompatibility of secret voting with precautions against an improper number of votes, or against improper conduct of persons to whom the care of the votes is entrusted, are unnecessary and unfounded.

In order to show this, it is necessary to describe some particular system of election in which secret voting is incorporated. It is of course allowed to the advocates of secret voting, to suppose a system possessing all possible collateral advantages, and also, if there should be a choice of modes of secret voting, to adopt that mode which is the best; else the Ballot will not receive a fair trial. And it is incumbent likewise on opponents of secret voting to conduct their argument with reference to the same best possible system of election.

Mr. Sydney Smith objects to the friends of the Ballot supposing any contemporaneous change in the system of

election, which would either co-operate with secret voting to diminish intimidation and bribery (as the abolition, for instance, of anomalously small constituencies), or prevent blame, properly attaching to the non-adoption of such change, from being laid at the door of the Ballot. Thus, when some improvements in the present machinery of registration are suggested, which, increasing the security for the right determining of qualifications to vote, would improve generally the system of election, and more than make up for the loss, which Ballot brings, of power of subsequent scrutiny, Mr. Smith exclaims,—"The answer of the excellent Benthamites to all this is, 'What you say may be true enough in the present state of registrations, but we have another scheme of registration, to which these objections will not apply.' There is really no answering this Paulo-post legislation." *Paulo-post legislation* is a happy term; but admiring the humour, I deny the justice, of the joke. The friends of secret voting are entitled to require that their project be tried under the most favourable circumstances, and that evils arising from the neglect of obvious collateral precautions be not ascribed to the Ballot.

Votes may be given secretly, either by means of a paper containing the names of the whole number of candidates, from which the voter has to expunge the names of those for whom he does not vote (this is the mode in the United States),—or by balls, which are all of one colour, and which, according as a voter wishes to vote for or against a particular candidate, must be placed in different boxes or in different compartments of the same box,—or again, by balls

of two different colours, which, so far as regards any one candidate, may be placed in the same box. These are three modes of voting secretly, and other modes may be mentioned or devised. Any one of these modes may, with more or less trouble, be accompanied by effectual precautions against improper votes and against tampering on the part of returning officers and their clerks, and may thus be made serviceable for elections. The first mode, that of the printed paper, is most simply and easily adapted to the purpose. It being clearly unnecessary to describe more than one system of election by secret voting, I shall choose for this purpose, out of the three modes of voting that have been enumerated, that one which is most simply and easily made serviceable. The circumstance, however, that there is no scarcity of modes that may be made free from the objections which have been brought, is not to be lost sight of, illustrating as it does the value of the objections.

Adopting, then, the mode of voting with a printed paper, I shall suppose the following system of election:—First of all, I suppose (as I am entitled to do) a good machinery of registration, conducted by proper persons and on proper principles, and so managed that a registration shall always take place shortly before an election. I may observe, in passing, that it will be no longer possible to reconsider votes after the election, with a view to abstracting them from one candidate or the other.[1] When secret voting is

[1] It will be possible to reserve the power of cancelling a return and ordering a new election, when a number of votes greater than the number of the winning candidate's majority over his opponent has been disallowed for personation, want of qualification, &c.

adopted, there can be no such scrutiny. The registry last before an election will, probably, be made final for that election; and when the election takes place, the appearance of one's name on the register will be the sufficient, as it will be the necessary, qualification to vote. I suppose then as good a registration-machinery as is possible. When the election takes place, the voters must first present themselves to clerks appointed by the returning officer for the special purpose of ascertaining that they are registered. The voter's name is demanded—a reference is made to the register—a declaration of identity perhaps required; where identity is distinctly impugned, the matter may be referred to the returning officer, who may hear evidence and decide, recording perhaps the grounds of his decision. The voter, if adjudged qualified, after the necessary and sufficient precautions have been taken to determine his identity, is furnished with a ticket which enables him to give his vote. Lists of the tickets given are kept by the persons whose business it is to give them. The voter, having received his ticket, now takes it to one of the clerks appointed by the returning officer to tend the boxes, and having presented his ticket, which is filed, receives one of the printed voting-papers. He then retires into another room, or into a recess, from which there is no egress save by the way by which he has entered, and where, unseen, he expunges from the list the names of those for whom he does not vote. Having done this, he returns to deposit his vote in the box. The box-clerks (as we may for shortness call those who watch over the boxes) cannot open these boxes, the keys being in the hands of

the returning officer. At the close of the election the returning officer, sitting in public, first ascertains the number of persons who have voted, which is furnished both by the box-clerks' files of tickets, and by the lists kept by the qualification-clerks; and afterwards, opening the boxes and causing the votes for the several candidates to be counted, ascertains the number for each candidate, and the result of the election. All this being done publicly, the returning officer and his clerks have little opportunity of playing tricks with the lists; while, again, the number of voting-papers produced is checked both by the box-clerks' files and by the qualification-clerks' lists of votes. These, too, are checks upon one another. The returning officer announces the result, and there is no scrutiny.

Let us consider, then, the objections to the practicability of the Ballot, with reference to this system of election by secret voting.

1. It is said, that secret voting is incompatible with precautions, which shall prevent unqualified persons from voting. Now the only additional facility (if additional facility it can be called) given for the admission of such unqualified persons, proceeds from the impossibility, which has been already explained, of instituting a revision of the register subsequently to the election, in order to deprive the member returned of particular votes on scrutiny. In Mr. Sydney Smith's words, "If there is Ballot there can be no scrutiny, the controlling power of Parliament is lost, and the members are entirely in the hands of returning officers." Now freely admitting the fact, I have to remark in answer to the objection derived from it: first, that the

difference caused by the disappearance of an after controlling power of scrutiny over elections, cannot possibly be a difference as between impossibility of excluding voters on the one hand, and perfect power of exclusion on the other, but can at most only be a difference in degree of precaution taken and security obtained; secondly, that there are evils arising from tribunals of appeal for scrutiny, such as increase of expense to candidates and increased opportunities of chicanery, which will more than countervail the good to be derived from them, even on the most favourable supposition; and thirdly, that ample precautions may be taken by a proper system of registration, by a proper use of the register during the election, together with the adoption of means of determining the identity of persons applying to vote, and of punishments where such identity is falsely assumed, to prevent the intrusion of unqualified voters. This objection has probably to a great extent originated in an ill-digested experience of systems of election, in which, combined with secret voting, there is either no registry, or an ill-managed registry, or no use is made of the register at the time of an election.[1] At all events it is very unjust

[1] Thus in America, where elections are conducted by Ballot, and where it is said that persons having no qualification vote in considerable numbers, there is no registry, or an imperfectly constructed one. The chief safeguard against bad votes is the power possessed by every citizen of challenging any voter at the poll. When so challenged, the person claiming to vote is required to swear that he is a citizen of the United States, that he has resided six months in the country, that he is at the time resident in the ward in which he claims to vote, and that he has not voted before, anywhere else, in the pending elections. The oath of course is no obstacle to many who have yet no sort of right to vote; and the qualification is of a sort which renders the proof of perjury peculiarly

to assert that, so long as power of scrutiny remains, unqualified voters can be entirely excluded, while, so soon as it ceases, they will be able largely to intrude themselves.

It is necessary, under any system of election, to take precautions for excluding persons who are not properly qualified to vote from the register, and for preventing persons who are not registered from voting. Under a system of which secret voting is a part, the following measures of precaution are as available as when votes are given openly. A system of registration, conducted by proper persons and on proper principles, will exist, and may be expected to suffice, for the proper determining of qualification to be placed upon the register. When the election takes place, measures such as have been mentioned in the above-described system of election by secret voting will be taken to ascertain, whether a person applying to vote has his name upon the register, and whether he is the person whom he professes to be, before he is allowed to vote:

> "Ille tamen faciem prius inspicit, et trepidat, ne
> Suppositus venias; ac falso nomine poscas.
> Agnitus accipies."

Notwithstanding, however, all precautions to determine identity, and all security for having these precautions properly carried into effect, a few unregistered persons may still, by assuming the name of some one who has either died since the formation of the registry or who is absent from the spot, succeed in deceiving the qualification-clerks,

difficult. Cases are known in which foreigners have been carried to the poll, straight from the emigrant ship in which they have just arrived.

and be admitted to vote. But these instances of personation must always be rare, and can seldom, as regards a single election, affect a return. But is it not a mockery to pretend, that to preserve scrutiny would be to render personation impracticable, or add anything worth taking into account to the security against it? Power might indeed be reserved of cancelling a return, where the number of personations and bad votes is proved larger than the majority, and with this view the register might be not final.

2. The next objection, that voters may, in cases where more than one member is to be elected, give more than one vote to some one particular candidate, cannot by any possibility apply to the plan of election above described. Being able to put no more than one voting-paper into the box, the voter can give no more than one vote to each candidate for whom he votes. Any voting-paper in which, by reason of not enough names being expunged, more candidates would seem to be voted for than there are members to be elected, is of course null and void. There is, however, nothing to prevent plumping, or voting for any number of candidates less than the number to be elected. The modes of voting with balls, to which the attention of the objectors has perhaps been restricted, may have suggested this objection, which, where voting-papers are used, is without ground or even excuse. But the modes of voting with balls, also, may be so arranged as to guard effectually against an improper number of votes.[1]

[1] I think it as well to explain in a note the way in which, when voting with balls is resorted to, the giving of more votes than one to any one particular candidate may be guarded against. [When

3. Neither need we alarm ourselves with the prospect, held out in the third objection, of tampering on the part of returning-officers and clerks with the votes entrusted to their care. This is effectually guarded against in the plan which has been described: first, by having two lists

When balls are used instead of voting-papers, the balls either may be all of one colour, having different meanings as they are placed in different boxes or different compartments of the same box; or they may be of two different colours, and to be placed, as regards any one candidate, in the same box.

When the balls are all of one colour, it will be necessary that there be two boxes or two compartments of a box for each candidate. There will be a separate clerk for each pair of boxes, or for each double box, if the mode of compartments be adopted. If there be two boxes, it will be necessary that these should be placed in an inner room, and the clerk stand outside of the door, so that he may not, by seeing in which box the voter places the ball, know how he votes. But if the mode of compartments be adopted, the box-clerk may stand by the box (which is better) and see the voter place his ball in the box. The voter will, at each double box or each pair of boxes, receive one ball; and, getting rid of one ball before he receives another, he will not be able to put more than one ball into each box.

When the balls are of different colours, and, having of themselves different meanings, may be placed in the same box, it will be absolutely necessary to have a pair of boxes for each candidate, one of the boxes being for the reception of waste balls. In this case a box of two compartments will not answer the purpose. There is a clerk for each pair of boxes, always standing by the boxes. The voter, going separately to each clerk, is provided by each with two balls, one white and the other black, with one of which he votes, and the other of which he puts into the waste box. Thus his vote is concealed from the clerk, who cannot see which ball he puts into which box; and at the same time he cannot carry away either of the balls, wherewith to do mischief in any of the other boxes.

All the arguments urged in the text against the objections, which impute facilities for the admission of unqualified voters and for tampering with the votes by returning-officers and their subordinates, apply of course to a plan of election comprising these modes of voting, as well as to in one which voting-papers are employed.

of the voters—the list of names kept by the qualification-clerks, and that supplied by the tickets filed by the box-clerks—which will check one another, and either of which will be a check upon the number of voting-papers; secondly, by the possibility of comparing, in a last resort, the number of voting-papers with the number of names upon the register; and thirdly, by obliging the returning-officer to open the boxes and carry on the computation of the votes in the presence of the public. It may be added that the box-clerks will necessarily be numerous; and as the voting-papers contained in each box may be separately compared with the tickets filed by its own box-clerk, any tampering with the votes by any one of these functionaries may immediately be brought home to the real offender.

Thus much for the objections to the practicability of secret voting or Ballot,—objections sometimes very positively urged, but yet very easily removed. When we consider that the Ballot is not a thing altogether new and untried, but that men have the experience of clubs innumerable to prove the compatibility of secret voting with precautions to exclude unqualified persons from voting, and to prevent such as are qualified from giving more than one vote to any one candidate, and, again, to prevent those who are entrusted with the care of the votes from tampering with their charge, the fact that such objections are urged and insisted on is surprising. Nor is it to be forgotten, that Mr. Grote was for some time at some pains to circulate through the country specimens of an ingeniously contrived and most practicable ballot-box.[1]

[1] The mode of secret voting recommended by Mr. Grote, for which his

II.—Having thus established the practicability of secret voting or Ballot, I proceed to speak of its advantage, hoping to show that a large balance of good will result from its adoption.

The nature of the good to be derived from secret voting or Ballot follows immediately from the nature of the evils, arising out of intimidation and bribery, which it is its

ballot-box is framed, is essentially the same with the mode described in the text. It is the mode of voting with voting-papers. But Mr. Grote's plan absolutely requires that these papers should be cards. In his plan, the voting-cards are not given into the hands of the voters, to be by them deposited in the box. They are suspended in a frame, a glass allowing the names to be seen, and there being a series of holes opposite to the names, through which a voter, pricking, may mark the card opposite to the names that he favours. As Mr. Sydney Smith wittily, but not very accurately, describes it, "you stab the card of your favourite candidate with a dagger." The box is immediately below the frame holding the card; and as soon as a voter has marked the card to his satisfaction, either he, or the clerk in his presence, draws away a slide, and lets the card drop into the box.

There is an advantage in Mr. Grote's voting-cards and frame, that the voter, not getting the card into his hand, is not able to show it to others after it is marked. In the United States, sufficient precautions are not taken for secrecy in the marking and depositing of voting-papers. The general mode of proceeding with ballot-voting in the States has been thus described to me: "The machinery of the Ballot, as established here, is extremely simple; a closed box, with a slit in the top, receives the folded ticket, containing the names of those voted for. The voter gives his ticket to the inspector of polls, and the inspector deposits it in the box. Though I believe that secrecy might be easily attained even by these simple means, yet in practice so little care is taken to conceal the vote given, that each party has generally an agent at the polling-place to challenge adverse votes. And this, too, is how the door is opened to bribery." In the system of election with voting-papers described in the text, precautions, which would probably be sufficient, are taken to ensure concealment.

A full description of Mr. Grote's box is to be found in the *Spectator* newspaper of February 25, 1837.

object to diminish. These evils may be enumerated as follows:—(1) A frustration of the existing scheme of representation and of the state's purpose, so often as a vote is given not in accordance with the opinion of the voter, but under the influence of a threat or in return for a bribe; (2) The unjustifiable infliction of pain on many who, performing their duty, vote in opposition to the wishes of landlords, masters, and customers; (3) The deterioration of moral character accruing to those who are either coerced or bribed into voting according to the wishes of another, and, in so far also as men are led to take up with others' opinions in place of forming them for themselves, the diminution of incentive, for the humbler classes of society, to mental improvement; (4) The injurious effect of tyranny on the intimidator himself, and of bribery on the briber, and, in so far as a seat in Parliament can be gained by the employment of foul means, the diminution of inducement for the higher classes to cultivate the intellectual accomplishments and the virtues which rightly should be the sole conditions of success. The nature of the good to be derived from secret voting consists in the mitigation of all these evils. By the adoption of secret voting, a fuller carrying out of the purpose of the state, as expressed in the existing scheme of representation, will be secured; the amount of pain unjustifiably inflicted in the way of ejecting tenants, dismissing servants, and discontinuing tradesmen will be diminished; and for the humbler and higher classes of society alike, for those who are now intimidated and bribed as well as for those from whom threats and bribes proceed,

the means of moral and mental improvement will be enlarged. Such is the nature of the good which is expected to result from the adoption of secret voting or Ballot.

The degree to which it may be expected that this good will be attained, or, in other words, the evils arising out of intimidation and bribery mitigated, depends necessarily on the degree to which the practice of intimidation and bribery will be diminished. This, again, depends on the way in which secret voting will operate to prevent intimidation and bribery. Now the *modus operandi* of secret voting or Ballot, which has already been indicated, may be described as follows:—Every voter will be obliged to give his vote secretly. The intimidator, instead of, as now, seeing how a particular voter, whom he wishes to coerce, votes, will be obliged either to depend on the voter's own statement, which may be false, or to resort to rather laborious and not very gentlemanlike modes of arriving at the secret, which after all will carry him no farther than suspicion; and instead of being able, as now, instantly to follow up with punishment an obnoxious vote, he will be obliged to punish, if he punish at all for voting, merely on suspicion, punishing very possibly a man who has voted in accordance with his wishes, and at all events committing a greater act of tyranny, and one more likely to provoke public indignation, than were he to punish on certain knowledge; or, at best, he must content himself with ordering those whom he can influence to abstain from voting at all, and with punishing them if they disobey this order. Thus (to say the least) very considerable difficulties will be placed in the way of the intimidator.

The briber, too, instead of being able, as now, to withhold a promised bribe if the vote be contrary to his wishes, can gain nothing by waiting until the vote has been given, and, should he have bribed beforehand, will necessarily be uncertain as to whether the vote be after all in accordance with the object of the bribe; for he cannot place dependence on the honesty of a man who takes a bribe, nor can he repose faith in his statement, nor can any other means still within his reach of approaching to a discovery of the secret, carry him any further than suspicion. Thus the briber, too, necessarily uncertain as to the efficacy of his bribe, will, if any reliance can be placed on human nature, lose almost the whole of his inducement to bribe. It may be expected, then, that intimidation and bribery will be very considerably diminished by the adoption of secret voting or Ballot; bribery almost entirely, for it is silly to suppose that men will continue to give bribes when they must be uncertain of their efficacy; intimidation not perhaps to so great an extent as bribery, for to oppose difficulties—the mode in which secret voting operates to prevent intimidation—is generally not so effectual as to abstract inducement, but yet to a very considerable extent.

The opponents of the Ballot, however, placing much reliance on such means as may still exist of approaching to a discovery of the secret, and on modes by which still occasionally intimidation and bribery may be practised, are in the habit of disparaging and sometimes, indeed, denying the efficacy of secret voting. The expedients on which they thus build their hopes have been most of them alluded to in the above account of the operation of

secret voting; and perhaps they require only to be mentioned in order to show the futility of objections derived from them, and their utter inadequacy to destroy, or even in any considerable degree to damage, the efficacy of the Ballot. It may be as well, however, as much importance is often attached to the objections brought against the efficacy of secret voting or Ballot, to consider them a little more at length.

First of all, it is to be remarked that those who, not content with disparaging, go so far as to deny the efficacy of secret voting or Ballot, assign a wrong and unfair meaning to the word *efficacy*. Otherwise they could not deny it. These persons assume that secret voting is recommended in the hope of entirely removing intimidation and bribery, and the evils which spring from them. They accordingly represent that this entire removal of the evil is the object of the Ballot; and then discovering, as they easily may do, some means by which a voter's vote may be suspected, or perhaps even found out, or again some mode by which intimidation and bribery may still occasionally be practised, they at once triumph in the proved inefficacy of the Ballot, and think, or profess to think, the argument at an end. This fallacy or quibble is by no means a subtle one. Secret voting or Ballot is recommended, not in the hope of entirely removing, but in the more moderate one of diminishing to a very considerable extent, the practices of intimidation and bribery, and the evils which spring from them. It has been already explained in the account of the mode of operation of secret voting itself, that the Ballot is not adapted for the direct

and entire removal of the evil; neither can we so far ascribe perfection to a human contrivance as to assert that the Ballot, which is adapted to mitigate these evils, will be efficacious to the extent of entire removal. To be sure, even though the entire removal of the evils were professed to be the object of the Ballot, and this entire removal were not achieved, yet much good might be done, and the adoption of the Ballot be justified. But still, as the object professed was not attained, and expectations were broken, the quibble of inefficacy might plausibly be resorted to, and with many it might pass. Inasmuch, however, as the friends of the Ballot look to no more than a very considerable mitigation of the evils, and are satisfied, as they easily may be, with this, the question between them and the objectors cannot possibly be other than a question of degree, and the quibble is altogether without excuse. It remains then to be seen whether these objections, which are utterly inadequate to destroy, can damage in any considerable degree the expected efficacy of secret voting or Ballot.

These objections will be stated and considered in the following order: first, those which suggest expedients for baffling the secrecy afforded by Ballot; secondly, those which suggest modes of intimidation that may still be practised; and thirdly, those which suggest means of bribery.

1. A person possessing influence, and wishing to exert it in an improper way, may still, it is said, ask the dependent voter how he intends to vote, and gain more or less information from the answer, and act on that information. Now I believe (thus differing from some advocates

of the Ballot) that canvassing may continue, even though secret voting be adopted; and I may add, that I think its continuance not necessarily undesirable. If canvassing were entirely to cease, electors might have but scanty means of judging of the honesty and intelligence of candidates; for five minutes' conversation is often worth, for such a purpose, a hundred speeches from the hustings. There could be nothing either like an intimate connection, such as is desirable, between a member and his constituents. But I cannot myself see how Ballot will interfere with canvassing generally. It will doubtless tend (as I am about to show in considering this objection) greatly to diminish the motives for questioning with a view to intimidation and bribery, and will thus interfere with *improper* canvassing. But it will leave proper, wholesome canvassing untouched; for Ballot or secret voting creates no actual obstacle to the putting of questions. Admitting, then, the power of putting questions, I proceed to show how this cannot diminish, in any but the most insignificant degree, the efficacy of Ballot against intimidation and bribery.

Now supposing any such question put, the answer must either be a direct one, that the vote is to be against, or is to be according to, the wishes of the questioner; or it must be an evasive answer; or there may be no answer at all. I will consider these different cases separately.

If there be a direct answer and an unfavourable one, there can in this case certainly be no reason to discredit its truth, and the landlord or master or customer may, as under a system of open voting, proceed, if he receive such

an answer, to inflict punishment. So far it would seem at first that nothing is to be gained. Bribery is of course out of the question, under either open or secret voting, in the case of men who would give this honest answer. But as regards intimidation, it might have been hoped that the Ballot would rescue these bold, honest men from punishment. We shall be able to judge better whether there will not be a gain even for these men, and also how great that gain will be, when we have considered the case in which a direct and favourable answer may be given.

In this case the questioner cannot conclude at once, and for certain, that the vote will be as it is said. It is not necessary, mind, that the answer should be false. A landlord or master or customer, disposed to exercise in an unjustifiable manner the influence that he possesses, would most naturally suspect the dependent voter of a desire to avert its exercise; and so a man, who is known to be ready to bribe, would be prone to ascribe to the expectation of money some effect upon his respondent's veracity. Thus, even though no lie were told, the questioner could not be satisfied that he had been told the truth. And the natural consequence of this, again, even without the intervention of lies, would be, that questioning with a view to bribery and intimidation would be diminished, if indeed it would not almost entirely cease; for a briber can gain nothing like the certainty that will alone justify him in spending money, neither can an intimidator be satisfied that the vote which is promised to him will not really be against him. The practice of improper questioning must necessarily be diminished, when the motives for it are

diminished; and indeed the motives will be almost entirely taken away.

Now the great diminution of improper questioning thus brought about will obviously operate for good in the case which has been already considered, the case where a dependent voter will dare to give an unfavourable answer. Those men who, under a system of open voting, their honest obnoxious votes being seen, would be punished, will now pass unquestioned, and vote according to their opinions and their duty, unharmed. Thus, where a moment ago it seemed that there could be no gain, the gain will be almost all that can be desired. If the questions were put, the gain might certainly be none; but the questions will not be put.

There yet remain the cases where an evasive answer is given, or an answer is refused. In these cases a strong suspicion that the vote is to be adverse will certainly be warranted. But yet as against intimidation (as to bribery, there is none, in such cases, to be dealt with) there will here be no inconsiderable gain to be derived from secret voting. For, first, though the questioner may strongly suspect that the vote will be an adverse one, yet he is by no means certain: and as it is possible that the evasiveness or the refusal of an answer has arisen from notions of duty, and that the voter may after all vote according to the wishes of the questioner, and as, while there is a chance of this, he will be loth to inflict punishment and alienate a friend, even thus alone, in these cases; a smaller amount of punishment must be inflicted. But secondly, even if the intimidating questioner is not restrained thus, he will

commit an act of much greater tyranny, and one more likely to provoke public indignation, if he proceed to punish on suspicion, however strong, than were he to do it upon certain knowledge. Thus public opinion too, in these cases, will serve more effectually to restrain punishment. Thirdly and lastly, the great diminution of the practice of questioning, as already explained, will operate also in these cases. Fewer questions will be put, likely to call forth evasive answers or refusals to answer, both because even the most favourable answer cannot be relied on (and this even though no lie be told), and because also these answers, which may warrant pretty strong suspicion will yet not be nearly so good to proceed upon as the certainty afforded by a system of open voting.

Thus, then, having admitted the power of questioning, I may yet conclude that, under the Ballot, questioning of voters can serve but in an insignificant degree the evil purposes against which Ballot is directed. There will, in truth, be little or no questioning. The direct favourable answer, which is that wanted by every one that questions, cannot possibly justify the briber in bribing, neither can it assure the intimidator. Thus at once will the motive to questioning be very much diminished, if not entirely taken away. Questions consequently will not be put to those who would give unfavourable or (what is the same thing) evasive answers, or who would refuse to answer; and these men will now escape the punishment which, under a system of open voting, they would inevitably incur. The power of questioning, then, which can give no assistance whatever to bribery, can also, at most, give but a very

insignificant aid to intimidation. The efficacy of the Ballot will certainly survive the shock of this objection. At most only a little bit can be taken out of it.

2. A person disposed to exercise illegitimate influence, even though foiled when questioning a voter, or though abstaining from questioning him, may yet, it is said, arrive by many indirect methods at a strong suspicion as to his vote. He may observe who are his associates, learn what political opinions he expresses among these, or, should he be a silent and reserved man, he may follow him into the tavern and there note down the political talk which must inevitably escape, when wine shall have relaxed his rigidity. Again, the voter's wife must surely be in his confidence, and as surely must she be a gossip. Will he not have children too, whose artless prattle must some day let out the secret? These and other similar modes of approaching to or perhaps of discovering the secret, and of thus, to a certain extent, baffling the secrecy of the Ballot, have been often gravely put forward, in grave articles in reviews and grave speeches in Parliament. Now it is clear, at first sight, that if these are the modes which must be resorted to in order to discover a vote when Ballot is established, the discovery will be much more difficult than under a system of open voting. And by the increase of difficulty alone much will be gained, even though voters have friends with whom they occasionally get drunk, or wives and children whose tongues now and then place them in jeopardy. But again, these are surely modes to the employment of which, many who would not object to punishing an obnoxious vote which

they have seen, would indignantly refuse to resort. A gentleman would not resort to them himself; and he might have some scruples even about employing an agent for the purpose. These modes, too, will not necessarily, after all, carry the intimidator beyond suspicion; and it has already been explained how many, who might punish on certain knowledge, would not care to resort to means that will carry them no further than suspicion, or, even if the suspicion, however strong, were formed, would be loth to proceed upon it. Thus, even the power of resorting to these indirect and somewhat laborious and not very gentlemanlike modes of worming out the secret may still leave much efficacy to the Ballot.

3. It is said, again, that many voters will publish how they have voted, and that thus it will be comparatively easy to calculate how the remainder have voted, or that at any rate suspicion will fall upon such as avail themselves of their privilege of secrecy. It is taken care, in the system of election by secret voting which has been described, that every voter shall be obliged to vote unseen. The publication of a vote will be therefore only through the voter's own statement; and even though that statement be true, others cannot be certain of its truth. Thus this publication will not necessarily assist very much towards the discovery of votes which are given silently as well as secretly. Many of the votes, too, which are given silently, may be given after all in accordance with the wishes of superiors, but kept secret from notions of duty. How can the man who wants to punish know that it is not so? And how can he be safe in punishing?

4. There is yet another expedient which I shall mention, more, however, for the purpose of showing to what lengths the ingenuity of the opponents of Ballot has carried them, than because I attach importance to it. I give it as nearly as possible in the words in which it has been suggested. The voter, it is said, runs a great risk of discovery from the "calculations of canvassers, who, now that the polling goes on in several places at once, are enabled to check the hourly returns from each booth with their canvass-books, and (especially if they have a note from the poll-clerks of who came up during the hour) to tell pretty accurately whether promises have been kept or broken."[1] This objection by way of disparagement of the efficacy of the Ballot can at once be overthrown by preventing the hourly returns. In the system of election by secret voting which has been described above, it has been expressly stated that the boxes will not be opened till the voting is over, and that then they will be all opened together. So this spectre vanishes.

5. But even though all the expedients for counteracting the secrecy of the Ballot, which have now been mentioned and considered, should be of little avail, and though intimidation, practised in the ordinary mode of inflicting punishment for an obnoxious vote given, should be greatly diminished, yet the opponents of the Ballot are not without resource. They say, though a man disposed to exercise improper influence may not be able to find out and punish

[1] *Edinburgh Review* for January 1833 (Article on the Ballot, p. 553). This article was attributed to Lord Brougham, and I believe that he was the author.

an obnoxious vote when it has been given, yet that he may order a suspected dependent voter to abstain from voting, and may annex to his voting at all the punishment which, under a system of open voting, would follow an obnoxious vote. The placing difficulties in the way, then, of intimidation, as it has hitherto ordinarily been practised, will, it is said, lead to the adoption of this new mode of intimidation. "If the voter cannot be trusted, he will either be paired off with some known adversary, or at least required to remain at home. The argument for the Ballot all along presupposes two things;—the existence of power in the landlord over the tenant, and the disposition to use it oppressively. The farmer will therefore be forced to pair or stay away, unless the landlord can make sure of his vote, and 'trust him in the dark.'"[1] Now I am ready to admit that this mode of intimidation will be practicable, and that many who are baffled by Ballot in what has hitherto been the ordinary mode of intimidating, may be disposed to resort to it. But at the same time I would offer the following considerations by way of breaking the force of this objection. First, attention is more likely to be arrested, and public opinion thus turned against the intimidator, when a voter is known to be anxious yet afraid to go to the voting-booth, than when, going and giving his vote under the influence of some superior, to whose sway he has long been accustomed, he may easily pass with his vote unobserved, and the reasons which have determined it uninquired into. Secondly, intimidation of this kind will be exercised always upon suspicion, as distinguished from

[1] *Edinburgh Review*, January 1833.

certainty, of an adverse intention. Now so long as there is no certainty, there will yet be a chance that the vote may be given in accordance with the wishes of the superior. And persons who would not otherwise scruple to intimidate, will often be loth to lose one, however small a, chance of obtaining a favourable vote, by forbidding the vote to be given. Thirdly, we must remember that to diminish the practice of intimidation, which is a part of the immediate end of the Ballot, is again itself but a means to another end. A better fulfilment of the state's purpose, as expressed in the existing scheme of representation, is a part of this ulterior end. And towards attaining to this part of the ulterior end something would be done, even though precisely as much intimidation were now exercised in this way as formerly in the other. For a voter, who would otherwise be obliged to vote according to the wishes of his superior, and contrary to his own, is now, by the supposition, "paired off with some known adversary, or at least required to stay at home." In the first of these cases, he virtually expresses his own opinion, whereas under a system of open voting he would be obliged to do violence to it: so that here a genuine vote is gained. And even in the second case there is some gain, as regards the greater or less fulfilment of the purpose for which the franchise is bestowed, for by not voting at all less violence is done to the voter's opinion than by his voting in direct opposition to it.

6. It is said that a similar expedient may be resorted to by bribers. A man may be bribed to pair off or to stay away. The last of the three remarks made upon this expedient, when it is employed by intimidators, applies also

with full force when it is employed by bribers. It is to be remarked also upon this expedient for bribery, that, inasmuch as pairing off or staying away will be a considerably less return for a bribe than a vote in accordance with the briber's wishes, there will be a considerably less inducement to bribe in this way under the Ballot, than, under a system of open voting, there would be to purchase a vote.

7. A person who is able and disposed to bribe, may also, it is said, bribe sometimes under the Ballot in this manner; he may promise a sum of money to be distributed among his supporters, or among so many as choose to avail themselves of his generosity, in the event of his being elected. Such a plan of bribery, whenever it might occasionally be adopted, would have a more wholesale character than belongs to the purchasing of separate votes, and would thus be more pernicious. But still this plan of bribery, even on the most favourable supposition, can seldom be resorted to. It can be resorted to only in very small constituencies,—constituencies so small (though Mr. Sydney Smith will, of course, object to the "Paulo-post legislation" tendency of this remark) that their continuance is an anomaly, and an objection founded on the supposition of their continuance is unfair; and also only by extremely rich persons, who are the exceptions and not the rule, even in the parliament-seeking world. Again, it is to be remarked, that when a candidate who has resorted to this plan of bribery has been successful, and the time for the division of the prize-money has arrived, there will be no means of being satisfied that all who claim a share have been supporters. Even though no foes falsely represent themselves as friends,

yet the candidate who pays will be apt to suspect the occurrence of such tricks. And as men will not like to think that they are first voted against and then bled, the bare possibility of this proceeding may be expected to counteract, to some extent, the temptation to resort to this mode of wholesale bribery. Lastly, it is to be remembered that bribery will of course continue to be a punishable offence; and also that, though scrutinies cease, election tribunals for cases of extensive bribery will continue to exist. This is a plan of bribery which will obviously afford great facilities for detection; and with anything like properly-contrived bribery-laws, it may be said to be quite out of the question.[1]

I have now examined all the objections which are usually brought in disparagement of the efficacy of secret

[1] I quote the following from an admirable article in the *London and Westminster Review*, written by the late Sir Arthur Buller (vol. iii. p. 497): —"The grand argument to show the insufficiency of the Ballot, as a protection against bribery, is generally put forward in this way:—A candidate will say, 'If I am returned, such and such a quantity of money shall be divided among my supporters.' But now, be it recollected, that, in order that this inducement shall have any effect, it must be generally made known, and the electors must be few in number; and how can it be generally made known, without coming to the ears of some person well disposed to betray it, and who would lay himself out for the bribe? Of course, in ninety-nine cases out of a hundred, this wholesale bribery would emanate from the candidate himself, or, at all events, he would sooner or later be cognizant of it. . . . . Let him go on with his experiment. He is returned, we will say, having polled 400 votes: at the day appointed for the division of the promised money, 600 electors will come to present their claims: how is he to recognize the 200 impostors? However, their appearance will raise a hubbub among the faithful. 'Holla! treachery!' they will cry. 'Who are the rogues?' If, in this state of things, the cat does not jump out, we shall indeed admire the bag and the holder."

voting or Ballot, and I hope that the examination has not been conducted unfairly. With every disposition to allow these objections their full force, I assert at the close of this examination, that they are not only utterly inadequate to destroy, but that they can even damage only in a very small degree, the efficacy of the Ballot. The net gain from its adoption may, I think, fairly be stated thus:—Bribery, as it is now practised, will cease almost entirely, because men, being no longer able to be certain that they receive the votes for which they pay, will abstain from paying for them; while, as regards new modes of bribery which may be substituted, paying for an election when it is carried can at most very seldom be resorted to, and bribing to pair off or stay away will be less hurtful, as well as necessarily less frequent. Intimidation, also, will be very greatly diminished, because, in the place of certain knowledge of an obnoxious vote, there can now at most only be suspicion, and the means of arriving at such suspicion will be also considerably laborious, and will themselves have an unpopular character; and again, to punish upon suspicion will be more outrageous than to punish upon certainty. As to the expedient of intimidating to pair off or stay away, this (as has been already said of the similar expedient for bribery) will be less hurtful, as well as necessarily less frequent. Of one class of intimidators, indeed,—customers, whose connexion with their tradesmen is much more remote than that obtaining between landlords and tenants, or between masters and servants, and who therefore will not and cannot resort to circuitous means of discovering a tradesman's vote, or to circuitous and com-

paratively fruitless expedients of punishment,—it may be boldly said that their power will be entirely destroyed. The power of landlords and masters, too, will be very considerably crippled. Thus, despite all the disparaging attempts of the opponents of Ballot, the practice of intimidation and bribery will be very considerably diminished, and the evils which ensue will be very considerably mitigated. The good which Ballot has a tendency to produce may be expected to be produced in a very considerable degree.

Having now ascertained the nature of the good to be derived from secret voting or Ballot, and the degree in which it may be expected that that good will be attained, I have yet to take into consideration any evil or evils apprehended from the Ballot, in order that the tendency of this measure for evil may be compared with its tendency for good, and the nature and extent of the balance determined. And I shall conduct this, as I have conducted the previous part, of my argument, in the way of answering objections.

The objections tending to impute the production of mischief to secret voting or Ballot are numerous; and it is difficult to arrange them upon any sufficient principle of classification. Some of them may be called political, and others moral objections; but yet some will be as deserving of one name as of the other, and some again cannot claim either. Classification apart, then, the evils apprehended from the Ballot may be enumerated as follows:—1. That it will put an end to power of scrutiny. 2. That if all

are obliged to vote secretly, blind men, who are dependent on others' assistance, will be unable to vote, and that Ballot will thus introduce a disqualification not contemplated by the state. 3. That Ballot will destroy the influence which the higher classes ought to exercise over the humbler, both generally and in the performance of their political duties. 4. That it will give rise to perpetual distrust on the part of superiors, and to a system of tyranny on suspicion, thus making the last state of the poor man "worse than the first." 5. That secrecy of voting will take away all responsibility of voters to public opinion. 6. That the habit of secrecy alone will have an injurious effect on character. 7. That this secrecy will greatly facilitate mendacity, turning, perhaps, a hitherto open, honest, truth-telling nation into a nation of rogues and liars. These are the objections which are now to be considered with a view to removing or extenuating them.

1. Ballot will put an end to the power of scrutiny. This objection has been already incidentally discussed, and may be briefly disposed of. On the one hand, there is no likelihood that the securities for proper returns will be materially diminished by the cessation of this parliamentary control; and, on the other, certain good will ensue from it. An additional means of imposing expense on candidates will be taken away, and opportunities for chicanery now existing will cease.

2. Blind men will not be able to vote if all voting is conducted secretly. Certainly it would be a fair objection, so far as it went, to the Ballot, if it entailed the disqualifi-

cation of a class of men, who may be in every way fit to exercise the elective franchise, and who are consequently intended by the state to exercise it. But there need be no such disqualification, and they are blind men who would lead the blind against the Ballot. For the benefit of blind men, there may be a certain number of voting papers printed with raised letters, such as are designed for the use of blind men. I understand that a very slight elevation is sufficient to enable blind men to read by touch, and that the degree of elevation which may be effected by thick viscid ink, freely used, is almost always sufficient; so that there need be no great difference between the two kinds of voting-papers. Every person born blind, or becoming blind at a very early age, who is either in a condition of life to exercise the elective franchise, or likely to care about exercising it, will probably have learned to read with raised letters; and as to persons who may become blind at an advanced age, it is known that, if they have been able to read before, they now learn how to use raised letters with much quickness and facility. But even without this contrivance, there could be no conceivable objection to a blind man being permitted to appoint some one, in whom he confides, to give his vote for him, and thus to appear by his next friend.[1]

[1] With Mr. Grote's ballot-box, blind men may vote without any contrivance of raised letters, and simply by feeling the holes opposite to the card containing the names of the candidates. These names are arranged, or may be, alphabetically, and the first name will be opposite to the top hole. Finding his way down, the blind man can select the proper holes, and, according to Mr. Grote's fashion, prick them.

3. The adoption of secret voting, or Ballot, will destroy the proper influence of the higher over the humbler classes of society. There are two different meanings which may be attached to the phrase, *proper influence;* and it will be necessary to consider the objection separately with reference to each of these meanings.

First, to require a vote in accordance with the superior's wish, and contrary to the opinion of the voter, may by some be considered proper influence. There are, perhaps, men who honestly entertain this opinion. The conduct of the Duke of Newcastle, as defended by his memorable phrase of "doing what one likes with one's own," can be explained in no other way, by such as will not refuse conscientiousness to a political opponent. But though it may plausibly be contended that a poor man cannot form a proper opinion for himself on deep political questions, and that to make every tenant follow his landlord, and every servant his master, is the only means of evolving good out of the evil of a wide distribution of the elective franchise; yet, on the other hand, it is to be remembered that the higher classes are as liable to be led away by sinister interest and by prejudice, as the humble by ignorance; and that, where perturbing causes may operate with all, there is a greater chance of nullifying these, and of obtaining the right result, in proportion as we have a greater number of separate independent opinions. But without entering into the why and the wherefore, it is enough that the state designs no feudo-political system. Each voter is to express his own opinion. To prevent his expression of his own opinion violently, is to exercise an improper,

and not a proper, influence. The destruction of this improper influence, by means of Ballot or in any other way, is a good, and not an evil.

But there is also a thoroughly proper influence, with reference to which the objection that I am now considering is sometimes made,—the influence, namely, of superior reason and virtue. How can the Ballot interfere with this? It is difficult to perceive. The landlord who has the co-operation of his tenants through a deferential belief in his abilities or virtues,—one, to whose reasoning they ever yield a willing assent, and whose character tells them that, whatever his intellectual superiority, he will scorn to avail himself of it to mislead,—one (suppose) so marked out by the just tenor of his ways and the equilibrium of his nature, that were he himself ambitious of a seat in Parliament, political opponents might exclaim, "Such a man should have a place in the legislature, if only that the example of his honour and tolerance and inflexible justice may be conspicuous,"—such a landlord as this can lose none of the respect which rightly belongs to him, and which must always be beneficial in its influence. Neither can the customer, whose opinions the bookseller or the grocer always waits to hear before he makes up his mind which candidate he shall support, lose his opportunities of argument because secret voting is adopted, nor can his argument lose its efficacy. So far, everything must remain entirely as it was.

But Mr. Sydney Smith says that, when Ballot is established, there will be no means of knowing whether even the man who is most respected has voted in accordance

with his conversation, and it will become "easy to whisper away the character of the best men." If this is the only way in which virtue and reason are to be robbed of their influence, surely, as regards the "best men," such whispers will be disregarded. Let us, however, hear Mr. Smith:—

"There is a town (No. 1) in which live two very clever and respectable men, Johnson and Pelham, small tradesmen, men always willing to run some risk for the public good, and to be less rich and more honest than their neighbours. It is of considerable consequence to the formation of opinion in this town, as an example, to know how Johnson and Pelham vote. It guides the affections, and directs the understandings, of the whole population, and materially affects public opinion in this town; and in another borough (No. 2) it would be of the highest importance to public opinion if it were certain how Mr. Smith, the ironmonger and Mr. Rogers, the London carrier, voted; because they are both thoroughly honest men, and of excellent understanding for their condition of life. Now the tendency of Ballot would be to destroy all the Pelhams, Johnsons, Rogers's, and Smiths, to sow an universal mistrust, and to exterminate the natural guides and leaders of the people; political influence founded upon honour and ancient honesty in politics, could not grow up under such a system. No man's declaration could get believed. It would be easy to whisper away the character of the best men; and to assert that, in spite of all his declarations, which are nothing but a blind, the romantic Rogers has voted on the other side, and is in secret league with our enemies."

Now all this, however amusing, is a complete *non sequitur*. Certain men are respected, says Mr. Smith, because they

are known to be honest men; when the Ballot is established, some one may accuse them of dishonesty, and the knowledge of their honesty must cause this accusation to be believed. So, because they are clever men, an idle suspicion of dishonesty will rob them of the respect due to cleverness, and will rob their clever arguments of force. No! the Pelhams and Johnsons and Rogers's and Smiths, their high examples and means of usefulness, will remain untouched. Their reputations for honesty cannot cease merely because their votes are not seen. Their several abilities may be employed as before, and as usefully. Mr. Rogers, the carrier, may still eloquently disseminate the political wisdom which his trips to London procure for him, and should carry as much weight as formerly. Mr. Smith will continue to write pamphlets, which will be cheaply circulated and eagerly read, and make withering jokes against his opponents. The fancy of the "romantic Rogers" will not be wasted in the ballot-box, nor the wit and wisdom of the sacred, salient Smith.

4. The Ballot will introduce a system of tyranny on suspicion. The answer to this objection has already been virtually given, in considering the means suggested for baffling the secrecy of the Ballot. Men will find that it is looked upon as a greater act of tyranny to punish upon suspicion than to punish upon certain knowledge, and they will be led to abstain accordingly. Besides, men acting upon suspicion may often be mistaken, and punish a friend for a foe; and men will not like to think that they are doing this. This will be a second reason for abstaining from such tyranny. Again, the obvious tendency of

tyranny on suspicion (and this is strangely thrown in the teeth of the advocates of the Ballot) would be, that men who are otherwise ready to vote according to the wishes of superiors would, in order to avoid suspicion, abstain from voting altogether. Why, wherever a man who would otherwise vote under dictation, abstains from voting, there is (as has been previously explained) a gain for the cause of genuine voting. It is forgotten also that this consequence will be disliked by the tyrants themselves; for it is their object to get as many votes as possible, and they will now cause votes to be utterly lost, which, were they given, might very possibly be given for them. But, even further, may we not cherish the hope, that the very establishment of Ballot, being, as it would be, a solemn protest by the state against tyranny of superiors, would of itself act as a spell on the tyrants, arresting the thoughtless and causing misgivings even to the most bold,—thus rendering all petty calculations of interest superfluous. For a long time has the poor dependent voter been compelled to sacrifice duty or suffer grinding tyranny: and the state, looking quietly on, has done nothing to protect him. The state's apathy has been the tyrant's power. But now, and for the first time, men would hear the state say, "We will protect the poor voter in the honest performance of the duty we impose upon him; we will stay, if we can, your tyranny; you shall no longer thwart our will, and trample on poor men's honesty; no longer shall you wickedly set yourselves above other men's consciences, saying to the poor man, and to him who lives by the toil of his hands and the sweat of his brow 'Obey conscience, and we will

bring penury upon you, and consign to famine the wife and the children whose bread comes from your earnings.'" Let us hope that such language will not fall on deaf ears.

5. Secrecy of voting will destroy the responsibility of voters to public opinion. This objection may be more fully and adequately expressed thus:—A voter, when he votes, has to fulfil a trust conferred upon him by the state, or (changing the phrase) to discharge a duty to the state, and it is right that the state, which confers the trust and towards which the duty lies, should be able to know that the trust is properly fulfilled, or the duty properly discharged. Now the state, which is the aggregate of individuals in the country, both voters and non-voters, cannot, if votes are given secretly, know that they are given to proper persons, or in obedience to proper motives. With secret voting, therefore, the state cannot exercise any control, either by punishment or through what is called public opinion, to prevent improper votes. Punishment, to be sure, is out of the question, unless in the case of bribery, which is not now spoken of, and which may be punished equally well under a system of secret or of open voting; but the influence of public opinion, or (changing the phrase) a responsibility to public opinion, would be highly salutary to prevent votes from being given to men of bad character, or in the mere indulgence of private spite or partiality. Hear, for instance, what Mr. Sydney Smith, a great authority, says:—"The landlord has perhaps said a cross word to the tenant; the candidate for whom the tenant votes, in opposition to his landlord, has taken his second son for a

footman, or his father knew the candidate's grandfather. How many thousand votes, sheltered (as the ballotists suppose) from intimidation, would be given from such silly motives as these? How many would be given from the mere discontent of inferiority? or from that strange, simious, schoolboy passion of giving pain to others, even when the author cannot be found out?—motives as pernicious as any which could proceed from intimidation. So that all the votes screened by ballot would not be screened for any public good." And again the witty writer exclaims:—"'Who brought that mischievous, profligate villain into parliament? Let us see the names of his real supporters. Who stood out against the strong and uplifted arm of power? Who discovered this excellent and hitherto unknown person? Who opposed the man whom we all know to be one of the first men in the country?' Are these fair and useful questions to be veiled hereafter in impenetrable mystery? Is this sort of publicity of no good as a restraint? Is it of no good as an incitement and a reward for exertions?" This salutary influence of public opinion, so admirably described by Mr. Smith, is, he contends, a means of control belonging of right to the state from which comes the duty of voting.

The objection, thus put, presents two points for consideration: the first, that an effective responsibility to the state through public opinion is assumed to exist when votes are given openly; and the second, that a responsibility to the state is assumed to be the proper and necessary accompaniment of the duty of voting imposed by the state. I will consider these two points separately.

First, then, is there (as is assumed in this objection) an effective responsibility through public opinion when votes are given openly? Now it is a voter's duty to vote for the candidate whom, on the several grounds of honesty, intelligence, and the general tenor of political opinion, he thinks most deserving of a seat in Parliament. If he votes for anyone whom he thinks an improper person, or votes merely from private partiality or pique, he does not perform his duty. There is no doubt of this; but what security against this violation of duty is derived from open voting? Absolutely none. He gives his vote, and we will suppose that the vote is disapproved of. One man hints disapprobation, another openly remonstrates, a third perhaps declares that the voter does not deserve to have a vote, because he has supported such a scoundrel. This is the way in which public opinion is communicated to the voter, and in this way alone can it be brought to act upon him. Well, he has an obvious answer to all these expressions of disapprobation,—that he has voted for the candidate whom he *thinks* the best; that is his duty, and he has performed it; he has acted upon his own opinion, which the state has told him to do, and, however ready he may be to listen to the opinion of others, he is not bound to adopt them. Such is his answer. And even supposing that he has voted for one who all the world besides agrees is an improper person, or against another towards whom he is known to entertain a grudge, this answer cannot be overcome. You cannot penetrate into his thoughts, save by the assistance of his own words; and if he tells you that he has voted for the man whom he *thinks* the

best, you can say no more. You are baffled. So that after all, with open voting, there is no effective responsibility through public opinion to prevent an improper vote.

I have hitherto supposed that the vote which is disapproved of, is really and without doubt an improper one. But it even may be that the voter has supported a candidate, whose politics only the friends who quarrel with his vote disapprove of. In this case, is it right that the expressions of opinion which come to him should be heeded? Or again, having to choose between a political adversary of unspotted character, and a man whose politics he approves, who also possesses talent and eloquence, but who in private life is a spendthrift, or of loose morals, or perhaps even of doubtful integrity,—he may yet have voted for the latter, thinking that the influence of public opinion and the control exercised by a constituency, in whose hands is the power of re-election, may secure the honest, consistent performance of his public duties, while his abilities cannot but do good service to the cause which he supports. Is this necessarily a wrong choice? Far be it from the writer to disparage the value of honesty, or to contend that the bad man deserves to be exalted, or even to say that it is not better not to exalt him; but here is a choice of evils, and the choice supposed may easily be a choice of the lesser evil. At any rate, Mr. Smith knows well that under the present system of open voting, votes are given almost invariably on the ground of politics alone, and little or no heed given to questions of private character. History may supply an instance or two to show that private

immorality does not always incapacitate for public usefulness. Mr. Wilkes was a man of dissipated habits, but for all that the electors of Middlesex confided in him; and they were no more wrong in this than were royal and aristocratic politicians in extending their patronage to Mr. Sheridan. Even Mr. Fox, the noblest-hearted and truest of English statesmen, was a gambler. Great as was Mirabeau's prodigality, and inordinate his excesses, the National Assembly could have "better spared" many a "better man."

Now this difficulty in determining what is an improper vote is of itself a strong argument against the establishment of an effective responsibility, even if it were practicable. This point, however, may be argued in a more general manner. The state confers the elective franchise on those whom, either by reason of possessing a certain amount of property, or in consequence perhaps of direct proof of education, it deems likely to express an honest and intelligent opinion. This qualification, whether of property or of education, is the only precaution which the state takes. It does not reserve the power of taking away the franchise, nor does it assign punishment for what those who urge the objection we are considering, call improper votes. Nor is it proper that it should. The object of conferring the elective franchise is to obtain the genuine, independent opinion of him on whom it is conferred; and to control the voter in any way would, by interfering with that opinion, frustrate the object for which the franchise is conferred. An effective responsibility to the state, so far from properly accompanying the elective

franchise, is inconsistent, therefore, with the object of the state in conferring it.

I have treated this objection, of the loss of responsibility, as if the responsibility spoken of were always intended to be a responsibility to the state, made up of both voters and non-voters. The objection is very frequently urged, however, as if it were a responsibility solely to the non-voting portion of the state. It is said that a certain portion of the community are selected to be invested with the elective franchise, and that it is but just that those who are excluded from the possession of the franchise should have some control over those who are enfranchised. I will not go again into the proof that no effective control can after all be exercised; for a proposal to subject men who are pronounced fit for the possession of the elective franchise to the control of others who are pronounced unfit, is one so glaringly absurd as not to warrant serious discussion.

6. The habit of secrecy will of itself have an injurious effect on the character. This must be what is meant (at least if anything is meant beyond mere abuse) by the phrase often in the mouth of objectors, that the Ballot is un-English. Whether the Ballot be un-English or not, in the obvious sense, attaching to the word *un-English*, of *unknown in England*, is a matter perfectly indifferent, supposing it can be shown that the Ballot is beneficial; and any objection founded on the Ballot in this sense would be as irrelevant as it would be powerless. But if the word *un-English* be used as convertible with *secret*, and if the phrase be really pregnant with the meaning that the Ballot is hurtful by reason of its secrecy, then it

may not be altogether amiss to bestow a word on the objection. Secrecy is not in itself bad. An action performed secretly is not necessarily a bad action. It so happens that men generally resort to secrecy when they perform bad actions: but the actions are bad independently of the secrecy, and the hurt to the character arises, not from the secrecy, but from the badness of the action. The objection evidently arises from an association formed in men's minds between secrecy and badness, owing to the number of bad actions performed secretly. But the association leads here to a mistake. Good actions may for particular reasons be performed secretly, and remain good actions still, or even their goodness may be enhanced. Thus are we specially enjoined to be secret in our benevolence, "not letting the left hand know what the right hand doeth," in order that the merit of the benevolence may be increased by secrecy. Here surely secrecy can have no injurious effect on the character, neither can it when a voter votes secretly, purposely concealing his vote that he may foil an intimidator, and vote according to what he knows to be his duty. Even if there were any necessary harm in secrecy (which there is not), the idea of duty, under whose presiding influence the secret action is performed, would sanctify it for good.

7. But even if secrecy of itself has no injurious effect, it will be hurtful as giving facilities to mendacity. This objection is perhaps more relied on by opponents of the Ballot than any of those previously considered. It is thought, or professed to be thought, that the Ballot will cause mendacity to so great an extent as to turn a nation,

of which truth and honesty have long been the proud attributes, into a nation of rogues and liars.

What has been said in a previous part of the pamphlet, in explaining the mode of operation of the Ballot against intimidation and bribery, and the manner in which it will tend also to diminish questioning with a view to these practices, will assist us much in answering this objection. It is said by the objectors that, when secret voting is adopted, a man may receive a bribe and afterwards vote contrary to his promise to the briber; or he may tell his landlord or master or customer that he will vote according to his wishes, and afterwards avail himself of secrecy to violate the promise. The gain, then, of the Ballot, it is said, is a gain procured chiefly, if not entirely, at the expense of truth. Now, first of all, I must observe that, in the account given in this pamphlet of the mode of operation of the Ballot against intimidation and bribery, no part of the calculation has been based upon mendacity. But secondly, the whole tenor of the argument for the efficacy of the Ballot is to show that there will very seldom, if ever, be the asserted opportunities of fraud. It has been shown that, under the Ballot, the briber will lose almost the whole of his inducement to bribery; and that thus bribes will very seldom, if ever, be given; very seldom, if ever, then, will voters have an opportunity of deceiving bribers in the manner asserted by the objectors. Again, it has been shown that great difficulties will be placed in the way of the intimidator, and that, being unable to gain certainty by questioning, he will now cease to question with a view to the exercise of intimidation; very seldom,

if ever, then, will voters have an opportunity of deceiving landlords and masters and customers in the manner asserted by the objectors. The answer to this objection, so far as it imputes any great amount of mendacity, is therefore of a most triumphant sort. The very same argument which proves the efficacy of the Ballot, refutes it. If intimidation and bribery are diminished by the Ballot, they will be diminished in such a manner as to render, at the same time, the asserted mendacity impracticable.

It is out of the question, then, to suppose that the Ballot will afford such great facilities for mendacity as to be likely to work a complete change in the English character, or, even short of this, that it will afford any great facilities for mendacity; and it is not only absurd, but wicked and unjust, to say that the friends of the Ballot calculate on this mendacity for their gain.

But still I am free to confess that lies may in some few cases be told when secret voting has been adopted, which would not be told if votes were given openly, and any such lies could at once be detected. Some few men may certainly be found foolish enough to spend money without any security of getting what they pay for; and a greater number, perhaps, will continue the practice of questioning voters who are dependent upon them, even though they are unable to rely on the favourable answer which they desire. In some few cases then, necessarily very few, a man may take a bribe, promising to vote with the briber, and afterward vote otherwise; perhaps, in a greater number of cases, though still few, a man may give a favourable

answer to a landlord or master or customer, who questions him as to his vote, and afterwards vote contrary to his statement. I say I freely confess that lies may thus sometimes be told under the Ballot, and as freely do I confess that, when they are thus told, evil is introduced by the Ballot. I know it is generally said that the men who will thus lie would lie also in another way, under a system of open voting, when they would necessarily vote with the briber or intimidator, and would thus break a virtual promise to the state to vote in accordance with their own opinions. I cannot myself recognize this argument. Even if metaphor may be stretched so far as to allow of this violation of duty to the state being called a lie, yet its effect on the character cannot be compared with that of a plain actual lie. And it is by reference to the effect on the character, not by disputing whether the same name can or cannot be given to the two violations of duty, that the improper vote in the one case and the lie in the other are to be compared. Now, however degrading it must be to a man to be bribed or coerced into an unconscientious vote, there is in these cases, under a system of secret voting, the deep degradation of a lie added to that worked by bribery or intimidation. The degradation of a lie is itself greater than that brought on the man who is either bribed or intimidated; but here one degradation is added to the other. I cannot doubt, then, that whenever a lie is told, as in a few cases it possibly may be under the Ballot, greater evil arises than would exist in the corresponding case, under a system of open voting.

This amount of evil, such as it is, caused by the Ballot

must necessarily be set against the good which it has been shown that Ballot will produce. It is necessarily very small, the cases in which bribes will be given, and questioning with a view to intimidation will take place, being necessarily very few. But the following considerations will serve even still further to extenuate this evil.

It is certainly true, that in these cases deception will be practised, which could not occur if votes were given openly. Yet it is not fair to say that the Ballot is the cause of this deception. To some few persons, whose tone of morality is low-pitched, and who are ready to deceive when they have an opportunity of doing so, the Ballot will give the opportunity. But, even in these cases, the Ballot will not produce the disposition to deceive, nor generate the immorality. This exists independently of the Ballot, and the Ballot simply develops it. I know that every separate act of immorality, every separate fraud, every separate lie, works its own bad effect upon the character: and I trust that I have shown no disposition to disguise this. But yet I would put it to those, who thus make the morals of the nation their care, and cry out against the Ballot, because here and there a rogue may have an opportunity of deceiving, or a liar may now and then tell an undiscovered lie, whether to take account (as they would recommend) of individual opportunities of giving effect to evil dispositions, and to refuse these opportunities (whatever amount of good, in other respects, may be produced by the measure which would afford them), is a mode of interference either befitting the high end which it is designed to serve, or befitting the

power and dignity of the state,—whether it is not a paltry, peddling plan of legislation. If it is your real and sincere object effectually to encourage the growth of good, and to eradicate bad, dispositions among the people, diffuse knowledge and power,—found a large, liberal system of education,—be not niggardly with the franchise (by a generous confidence you will implant the feeling of self-respect, the sure precursor of morality)—but above all establish a national system of education, poisoned by no party-spirit, narrowed by no superstition of form or doctrine. Then may you do some good. By refusing the Ballot, you will at most but prevent one lie, where lying is habitual,—one fraud, where twenty others, day by day, are committed. But if you refuse the Ballot, and at the same time neglect to diffuse power and knowledge among the people, you incur the blame of first perpetuating immorality, and then availing yourselves of it, to deny a measure fruitful of good. I will not charge any political party with the wilful adoption of this wicked course. But I would seek to impress most deeply on the mind of the reader the utter insignificance of the question of the Ballot, as affecting mendacity in a nation. Mr. Sydney Smith exclaims, not with much sense or meaning, in one part of his pamphlet, "When two great parties in the empire are combating for the supreme power, does Mr. Grote imagine, that the men of woods, and forests, and rivers,—that they, who have the strength of the hills,—are to be baffled by bumpkins thrusting a little pin into a little card in a little box? that England is to be governed by political acupunctuation?" If this attempt at argu-

ment has weight with Mr. Smith and his admirers—if there is anything which they deem magical in this alternation of "little" and big words, I willingly take up this language forged in the Smithian smithy, and ask whether the honest, truth-telling men of England,—they who have the open simplicity of doves and the truth of angels,—are to be made rogues and liars "by thrusting a little pin into a little card in a little box?"—whether England's character for truth depends on "political acupunctuation?"

I have now examined all the objections which I can think of, imputing the production of mischief to secret voting or Ballot. What is the result of this examination? It appears that evil of one kind, and that of very small extent, may arise under the Ballot. Lies may sometimes be told to gain a bribe, or avert a threat; but, on the other hand, bribes will seldom or ever be given, and intimidation will be greatly diminished, and the disposition to tell lies must exist after all independently of the Ballot, and be brought out rather than caused by it. And against this small evil we have seen the great amount of good which is to be set. There can be no difficulty in striking the balance.

It has been already observed that the Ballot is no question of party, nor one on which those who are for, and those who are against, an extension of popular power, must necessarily differ. Men disagreeing in every possible way as to the extent to which the franchise should be distributed in a state, must yet be agreed that every one actually enfranchised should express his own genuine

opinion, and not be bribed or coerced into the expression of another's. It is to be presumed, then, that all are equally ready to support a measure directed against intimidation and bribery. All must agree on the value of the end for which the Ballot is recommended as a means. And again, as regards this particular means, men may agree as to the efficacy of the Ballot, and the comparative amounts of good and of evil which it will produce, even though they differ as to the principles by which the question of extension of suffrage is determined, and which divide them into political parties; again, agreeing as to these principles, they may differ upon the Ballot. The Ballot, then, is no party question. It is a question simply and solely as to the mode of attaining an end on the value of which all are agreed; and the considerations serving to determine the goodness of this particular mode are connected in no way with those critical of party, dividing Tories from Radicals, or Conservatives from Reformers. In consonance with this view, a difference on the Ballot has always existed within *one* of the two great political parties in the state, that party which has been generally called the Liberal party, and which has been known as more favourable than the other to the extension of knowledge and power among the people. But the conduct of the other party presents an unfavourable contrast. They have been banded, almost as one man, against the Ballot. Yet there are those among them who should see that opposition to Ballot is not necessitated by their principles.

Into the question of the Ballot many nice moral considerations enter, and some careful calculation is required.

It is not a question which can be referred to some one general principle, and thus turned off in a sentence, but it needs patient, accurate discussion. Now those who are themselves liable to be intimidated, and who must thus be deeply concerned in a remedy for the evil which they suffer, have the strongest motives to a full and fair investigation of the question. Men, on the other hand, whose interest in it is more remote, and who are besides distracted with a multitude of other calls upon their attention, are less likely to go through the labour of thought indispensable for an adequate investigation. This, then, is a question on which members of Parliament may often very properly attend to the opinions of constituents, who are likely to care more, and therefore to think more, and therefore to know more, about the Ballot than themselves. I am not recommending anything like slavish submission of opinion on the part of a representative to his constituents. I recommend only that the opinions of constituents should be attended to as a matter of evidence, in a case where these opinions are peculiarly deserving of attention. And there is even still another point of view in which the opinions of the constituent body, or of larger or smaller portions of it, are most important upon this question. It is one of the loudest and most frequent objections to the Ballot, that men will be able, if the Ballot is adopted, to take bribes and afterwards deceive the person who has bribed them. The injustice of this charge against the Ballot has been already shown; but it must be, to all minds, a powerful confirmation of the reasoning by which this charge has been answered, if men of unimpeached

integrity ask for the protection of the Ballot, or if constituencies whose character is unstained proclaim by petitions their support. Such men and such constituencies are not likely to ask for the means of immorality. They are not likely, at any rate, to turn the Ballot to such a purpose themselves.

Finally, the Ballot is an urgent question. It concerns vitally the morals of the nation. Shall honour and public spirit or sordid venality prevail in English cottages? Shall the English peasant, shall the English mechanic, shall the English tradesman be a crouching cowering slave, or shall he venerate himself a man? Such a question cannot brook delay. Every moment lost is, perhaps, some soul given over to corruption or lowered into slavery. Humbly then, but earnestly, I address myself to Reformers and say, "Exert yourselves for the Ballot, and not only this, but even concentrate and confine your exertions to the Ballot, as among questions of parliamentary Reform, until the Ballot be carried."

II.

SPEECH IN FAVOUR OF THE BALLOT IN THE HOUSE OF COMMONS, JUNE 21, 1842.

INTRODUCTORY NOTE.

I WAS a member of the House of Commons, sitting for Weymouth, when Mr. H. G. Ward, member for Sheffield, who was afterwards Sir Henry Ward and died Governor of Madras, brought forward the question of the Ballot, on June 21, 1842. The Conservatives were then in power, and Sir Robert Peel Prime Minister. Mr. Grote had retired from Parliament on the dissolution of the previous year. There was an amicable rivalry between Mr. Ward and Mr. Sheil, as to who should take up the question; the latter gave way. Mr. Ward's motion was seconded by Mr. Henry Berkeley. Silence reigned on the Government side; no one rose to reply from the Conservative benches. A third speech was made in favour of the Ballot by a Liberal member, Captain Layard. Again, when he sat down, no one rose. I then delivered the following speech, which had the effect of bringing up a highly respected Conservative member, Mr. Granville Vernon, who said that he was "especially tempted to rise to protest against the remonstrance addressed by the member for Weymouth, in forcible language, to the First Lord of the Treasury." The debate thus begun went on. The speakers for the Ballot were Captain Berkeley (afterwards Lord Fitz-

hardinge), Captain Bernal (now Mr. Bernal Osborne), Mr. Charles Ponsonby (now Lord De Mauley), Mr. Morgan John O'Connell, Mr. Sheil, Mr. Serjeant Murphy, Mr. O'Connell (the great O'Connell), and Mr. Wakley; the speakers against were Mr. Monckton Milnes (now Lord Houghton), Mr. Byng, Lord John Manners, Sir James Graham, and Lord John Russell. On the division, there were 157 for, and 290 against, the Ballot. The numbers in 1839, when Mr. Grote last proposed the measure, were 217 for and 335 against.

When I sat down on that occasion, Mr. O'Connell, who was sitting under me, asked my excellent colleague and friend, Mr. Bernal, who was so long Chairman of Committees, to introduce me to him, and I had thus the honour of making that celebrated man's acquaintance.

The subject of corruption at elections was prominent in the course of 1842, owing to the number of election petitions which followed the general election of 1841, and to a number of compromises to avoid discovery, which led, at Mr. Roebuck's instance, to the appointment of a special Committee of Inquiry.

SPEECH, ETC.

SIR,—I should have thought that, on a question of a measure which has gained considerable favour among the public, some of the many who will presently vote against it would have thought it right to explain the reasons of their votes. But as no one has risen on the other side to answer speeches which, when they go forth, the country will think worthy of notice, I will come forward on the same side, hoping that I may be engaged in a not altogether unprofitable task in clenching the recital of existing evils that has come from the honourable member for Bristol (Mr. H. Berkeley), and putting anew one or two of the principal points of the question so ably treated by the honourable member for Sheffield (Mr. H. G. Ward).

First of all, what is it that we propose to do by the Ballot, and how is it that we expect to do what we propose? The hope and the object of those who support the Ballot is to diminish to a very great extent bribery and intimidation at elections: and I beg the House to mark the word "diminish." We expect to diminish bribery and

intimidation. We do not hope entirely to remove them; it belongs to no human expedient to be entirely successful. But we say that the Ballot will diminish these evils to a very great extent: and being an expedient that will be simple and direct in its operation, stopping the briber and the intimidator in the doing of the foul deed, instead of waiting till the deed is done, to punish him then and to act on others by example, it will diminish those bad practices to a greater extent than any other expedient which can be suggested. Now, this distinction being observed, there is at once an end of a very favourite argument with opponents of the Ballot, which consists in alleging some mode—often imaginary, but sometimes, I will admit, really probable—in which bribery and intimidation may still be practised, and then exclaiming, "What becomes of the efficacy and success of the Ballot?" For instance, it is said that if the vote cannot be seen as it is given, there will yet, for a person anxious to punish a voter, be other ways of coming at something like a knowledge of his vote. Or again, if there is no intimidating or bribing a voter to give the vote you want, you may still intimidate or bribe a man to stay away. Now, I say, granting all this and a great deal more, what does it prove, but that, first, bribery and intimidation will be more difficult of practice with the Ballot than without it,—else why resort to these clumsy circuitous expedients? And, secondly, it proves that while the entire removal of these evils is not to be looked for, the Ballot may be most efficacious and successful to diminish bribery and intimidation.

The diminution, then, of bribery and intimidation being

the object of the Ballot, how is this object to be attained by it? Simply in this way. The voter will deposit his voting-card in the box, unseen by any one, and may thus elude the intimidator and foil the briber. I do not say that he will, but he may do so. Had the voter promised his vote in consequence of a threat, or in return for a bribe, he might keep his promise, but the intimidator or briber could never know that he did,—could never know that the threat had been nugatory, or that the money which had been paid had not been thrown away. In this state of necessary uncertainty as to the result, will threatening and bribing of voters continue undiminished? Will a man, as heretofore, incur the labour and risk the odium of intimidation, when he has no longer the means of securing its efficacy? Will a man give his money for a vote, when he cannot see that vote given, and cannot know, except by the assurance of the voter, which, in the case of a man who has taken a bribe, will hardly convince, whether the vote has been given to him or not? I say, then, that the Ballot will take away inducements to bribe and intimidate.

And now I come to consider by anticipation (for by anticipation I am compelled to do so) one or two objections often urged against the Ballot.

One of these is, that the franchise is a trust, and that those in whose behalf the trust is conferred, the unrepresented portion of the community, should see the vote given, and control the exercise of the trust. Why, if the unrepresented portion of the community is not invested with the franchise because it is judged unfit to hold it,

what is the consistency and propriety of saying that this portion is fit to control those who by reason of supposed superior fitness have the franchise?

There is another objection made to the Ballot, that it will tend to encourage lying. It is generally put thus: that it will do the good which it is intended to do through the medium of lying, enabling a man to promise his vote one way to his landlord, or his master, or a briber, and then, under protection of the ballot-box, vote the other way. Now I wish to deal fairly with this objection: and I will therefore say at once that I do not at all agree in the answer generally given, that the man who would tell the lie, if he voted secretly, would vote under the influence of a threat or a bribe, and so give the lie to his own opinions under a system of open voting; and that, the unconscientious vote being a lie, no additional harm will come of the Ballot. Now, I say that this is no answer at all; and I say at once that I can see no comparison between the actual lie in the one case and the metaphorical lie in the other, and that if I believed no other answer than this could be given, I would yield to the objection, and cease to advocate the Ballot. But let us consider this objection a little more closely. The way in which the Ballot is to act is by rendering threats profitless, and bribes to no purpose, by taking away the motives to spend money and exercise the influence of one's position, by removing therefrom all occasion for those questions which, if men have bribed, or have threatened, or intend to threaten, it may be very natural for them to put, but which, if they do neither the one nor the other, would be entirely useless,

and would not be put: and if questions are not put, lying answers will not be elicited.

And I would ask, by way of another answer to this objection, are corrupt constituencies anxious for the Ballot, as they would be if the Ballot is to give to corruption the additional protection of mendacity? What does Sudbury say? In the extracts which have lately been published from the Report of the Handloom Weavers' Commission, it appears that the Ballot is the most unpopular of measures at Sudbury, and that a candidate suffered in that sink of corruption because he was a supporter of the Ballot.

I believe, candidly, that the Ballot will not do mischief in any proportion to its good, and that it will effectually diminish the evils of intimidation and bribery, which now so widely prevail, and the effects of which are to degrade voters, lower the tone of feeling among persons who resort to those practices, and foil the purpose for which the Reform Bill has bestowed the franchise. And if the Ballot will do this, it cannot now surely be needful, when every day unfolds to us some new tale of corruption worse than that which went before, to impress on the House the necessity of adopting it. Rather would I say that, next to giving bread to those who are starving, it is our first duty to stay this moral pestilence which is spreading, and which, as it spreads, destroys honour, virtue, truth, courage, manliness, among the humbler orders of our society. When I have heard the right honourable baronet (Sir R. Peel), who is at the head of the Government, more than once make his new Tariff and his Income Tax the reason for postponing investigations into bribery, and declining to undertake legislation

on the subject, I have thought that this was not the course which should be taken by the First Minister of the country on a question more vitally than any other affecting the morals of the nation, and, as a moral question, requiring his first care. Talk of the credit of the country, and its military renown, and the glory of our commerce and manufactures, which Income Tax and Tariff are to foster and enhance: why, when the virtue and morality of the people are in peril, and aspirants to the legislature and to power are doing their worst to make slaves and hirelings of electors, and perverting institutions given for freedom's sake, and to elevate the holders of the franchise, to the enslaving and debasing of our countrymen, is it not time to reflect that, when the internal elements of greatness have gone, material prosperity and fame among the nations are only so much gilding and tinsel hiding filth and rottenness within? If you will adopt the motion of the honourable member for Sheffield, you will serve the cause of morality, and while vindicating our electoral institutions and preparing for their further development, will give a worthy impulse to the social and political progress of the nation.

III.

SUGGESTIONS FOR AN ORGANIZATION FOR RESTRAINT OF CORRUPTION AND EXPENDITURE AT ELECTIONS.

INTRODUCTORY NOTE.

THE following essay was read at a meeting of the Department of Jurisprudence and Amendment of the Law of the National Association for the Promotion of Social Science, on February 22, 1864. Two editions were published in that year by the Association. Mr. John Stuart Mill attended a discussion on the essay, and gave an emphatic approval of the plan. He said:—"I think there are legal measures which could be made effectual, but only if backed by a moral demonstration of a sufficient number of honest men who would league themselves together against the political crime, expressly or virtually pledging themselves both to abstain from it personally, and to use all their influence to prevent it. They would probably be able to obtain from the Legislature any such enactments as may be desirable, while they would supply the only powers which could enable those enactments to be enforced. Great credit is due to Mr. Christie for having, as it seems to me, 'hit the right nail on the head.'"

The Rev. F. D. Maurice honoured me by writing an article upon this essay in *Macmillan's Magazine*,[1] from which

[1] July 1864, art. "Corruption at Elections; Mr. Christie's Suggestions."

the following is an extract:—"Nothing may do more to justify the existence of this Association (the Social Science), and to explain its real objects, than an effort to which Mr. Christie, the late Minister in Brazil, has incited it. In an admirable paper, which he read on the 24th of February, he proposed 'an organization for the restraint of corruption at elections.' He gave specimens from Blue-books and from the evidence before election committees of the extent of the evil. He showed—without any exaggeration of language—in manly, vigorous English, that, whatever efforts had been made for its repression, it was still debasing the moral and political life of our country. He pointed out the importance of directing public opinion against the briber; the duty of treating many of what are considered the lawful expenses at elections as practically bribes; the necessity, therefore, of educating every class to a more enlarged apprehension of the sin, as well as a more intense abhorrence of it, than any of them can be credited with now. Mr. Christie had the high privilege of being supported in a few weighty and pregnant sentences by Mr. Mill, who came down to the Association expressly that he might give his adhesion to the movement. To have commenced that work will be always a high honour for the Association. Mr. Christie has appealed earnestly—more respectfully than we deserve—to members of my profession. He has called for our co-operation in redressing an evil which we must know does more to impair the morality of the country than all our sermons can ever do to raise it. I hope that co-operation will be afforded by every clergyman in the country."

An endeavour by the Social Science Association to establish such an organization as is sketched in the essay did

not receive sufficient encouragement to warrant persistence; and the scheme fell to the ground; but not before it had obtained the approval and co-operation of several distinguished men of different political opinions, and among others, of Lord Shaftesbury, Lord Russell, Lord Lyttelton, Sir John Pakington, Lord Stanley (now Lord Derby), Sir Joseph Napier (formerly Irish Lord Chancellor), Mr. E. Baines, Mr. W. E. Forster, Mr. Stansfeld, Mr. T. Chambers (the Common Serjeant), and Mr. Thomas Hughes.

In 1864, when this essay was written and published, a new general election was regarded as necessarily not far distant. The dissolution occurred in the following year. The new Parliament then elected, in 1865, was a splendid triumph for the Prime Minister, Lord Palmerston, too quickly followed by his lamented death. But the triumph was not without alloy; for there are several statements, registered in *Hansard*, of respected members of both Houses, to the effect that there was a greater amount of corruption in the general election of 1865 than in any which had preceded it. So said, among others, Earl Grey,[1] the late Earl of Derby,[2] and Mr. Vivian,[3] member for Glamorganshire, who was Chairman of two Election Committees in 1866; and Mr. W. E. Baxter,[4] now Secretary of the Treasury, who was Chairman of the Bridgewater Election Committee of 1866, also denounced in strong terms the general prevalence of corruption.

[1] House of Lords, May 29, 1866.
[2] Ibid. May 29, 1866.
[3] House of Commons, May 29, 1866.
[4] Ibid. May 1, 1866.

SUGGESTIONS, ETC.

THIS paper has a practical object and one idea. Can a moral enthusiasm be roused, and moral influences brought to bear, widely and effectively, by combined efforts of individuals, against bribery and extravagant expenditure at elections, which legislation is powerless to destroy? Can this Association organize or initiate such an action?

I couple extravagant expenditure with bribery, and need hardly explain that the greater part of the expenses of expensively contested elections are virtual corruption. The expensiveness of elections, independently of bribery, may be regarded as a social question deserving the attention of social reformers, inasmuch as it restricts the area of choice of representatives, helps wealth against intellect, thwarts political earnestness, and degrades constituencies. Mr. John Mill, in denouncing the expenses of elections as "one of the most conspicuous vices of the existing electoral system," forcibly points out the importance of the ruling idea under which elections are conducted and votes sought and given, and suggests the effect on an elector's mind, auxiliary to corruption, of the simple fact of a patent large expendi-

ture by candidates to gain a seat in Parliament. "In a good representative system," says Mr. Mill, "there would be no election expenses to be borne by the candidate. Their effect is wholly pernicious. Politically, they constitute a property qualification of the worst kind. Morally, it is still worse; not only by the profligate and demoralizing character of much of the expenditure, but by the corrupting effect of the notion inculcated on the voter, that the person he votes for should pay a large sum of money for permission to serve the public. They must be poor politicians who do not know the efficacy of such indirect moral influences. The incidental circumstances which surround a public act, and betoken the expectation entertained by society in regard to it, irrevocably determine the moral sentiment which adheres to the act in the mind of an average individual. So long as the candidate himself, and the customs of the world, seem to regard the function of a member of parliament less as a duty to be discharged than as a personal favour to be solicited, no effort will avail to implant in an ordinary voter the feeling that the election of a member of parliament is a matter of duty, and that he is not at liberty to bestow the vote on any other consideration than that of personal fitness. The necessary expenses of an election, those which concern all the candidates equally, should, it has often been urged, be defrayed either by the municipal body or by the state. With regard to the sources of expense which are personal to the individual candidate, committees, canvassing, even printing and public meetings, it is in every way better that these things should not be done at all, unless done by the gratuitous zeal, or

paid for by the contributions, of his supporters. Even now there are several members of parliament whose elections cost them nothing, the whole expense being defrayed by their constituents: of these members we may be completely assured that they are elected from public motives; that they are the men whom the voters really wish to see elected, in preference to all others, either on account of the principles they represent, or the services they are thought qualified to render."[1]

Perfection is unattainable in this world, and a perfect representative system is an impossibility. Human nature has everywhere engendered bribery and rioting in popular elections for places of honour, and corruption in parliamentary government. But, though perfection is unattainable, improvement is best effected by keeping a perfect system in view as a goal, which may be neared, though it cannot be reached: and moral influences have already done much to purify English government. In the seventeenth century there was not only general corruption of constituencies and notorious bribery of members of parliament, but there were also venal Ministers of State. It is long since there was even a suspicion that an English Minister of State could be bribed. The corruption of members of parliament by Government bribes was rampant in the last century, and there are men living who may remember traces of it; but we may say that bribery of members of parliament has been for many years extinct. The corruption of constituencies remains to be cured. Words used by Andrew Marvell in 1678, to describe the evil which had then suddenly

[1] "Thoughts on Parliamentary Reform," by John Stuart Mill. 1859.

assumed large proportions, are still applicable to a large number of English constituencies. "It is not to be expressed, the debauchery and lewdness which upon occasion of elections to Parliament are now grown habitual through the nation. So that the vice and the expense are risen to such a prodigious height that few sober men can endure to stand to be chosen on such conditions."[1]

Bishop Burnet, in the general review of the moral and social condition of England, with which he winds up the "History of his own Time," covering four reigns and half a century, wrote thus in 1708 on bribery at elections:—"All laws that can be made will prove ineffectual to cure so great an evil, till there comes to be a change and reformation of morals in the nation. We see former laws are evaded, and so will all the laws that can be made, till the candidates and electors both become men of another temper and other principles than appear now among them."[2]

Since the Reform Act, and more especially since the general election of 1841, Parliament has passed a number of Acts against bribery at elections; and an able historian of our own time, having passed in review this series of Acts, each rapidly proved inefficacious, makes some remarks which, after the lapse of a century and a half, are an unconscious reproduction of Bishop Burnet's observation. "To repress so grave an evil," says Sir Erskine May, in his "Constitutional History," published in 1861, "more effec-

[1] Marvell's "Growth of Popery and Arbitrary Government in England." Works, vol. i. p. 540.

[2] Burnet's "History of his own Time," vi. 208, ed. Oxford, 1823.

tual measures will doubtless be devised, but they may still be expected to fail, until bribery shall be unmistakably condemned by public opinion. The law had treated duelling as murder, yet the penalty of death was unable to repress it; but when society discountenanced that time-honoured custom, it was suddenly abandoned. Voters may always be found to receive bribes if offered; but candidates belong to a class whom the influence of society may restrain from committing an offence condemned alike by the law and by public opinion."[1]

I wish to suggest whether, at this moment, when a general election cannot be far distant, but while there is yet time to act on public opinion, and while, before parties are engaged in passionate contention, the voice of reason may yet be heard, an Association might not be called into existence to rouse, concentrate, and guide the moral feeling of the nation, and to arrange and superintend an extensive system of concerted practical effort, for an object which all respectable men desire, and which laws will not accomplish.

The sudden turn of feeling, which within our memories suppressed the long-cherished and strongly rooted fashion of duelling, gives encouragement to hope for good effects of a well-aimed impulse to public feeling on corruption at elections, which is not favoured, as duelling was, by opinion, but which is connived at from habit, and sheltered by charitable indulgence, and practised with compunction of conscience under the influence of circumstances, passion, rivalry, and temptation. I believe that the formation of the Anti-

[1] May's "Constitutional History of England," i. p. 336.

duelling Association in 1844 had some share in bringing about the sudden great change of public opinion on duelling which occurred shortly after; and I feel sure that the formation of an Association against corruption at elections, comprising the leading men of all parties, and perhaps combining for a social reform dignitaries of the Church and of the Law with the most eminent in political life, would be itself a great stride towards success.

Such an Association might of course act on opinion by large public meetings and circulation of suitable pamphlets; but I look chiefly to the following mode of action, aided by the enthusiasm which the existence of the Association would engender.

Endeavours should be made to include as many members of parliament and candidates for seats, and leading members of constituencies, as possible of all parties. Every one in becoming a member of the Association would thereby pledge himself to abstain from corrupt expenditure by himself or friends, and to do everything in his power to discourage and prevent it.

Local committees composed of leading men of all parties should be organized through the constituencies. Endeavours should be made everywhere to procure agreements between opposing candidates, and opposing leaders of parties in constituencies, to abstain from bribery and to limit expenditure. Such agreements could probably be made without much difficulty, in most cases, some time before an election. All candidates have a strong common interest in abstaining from bribery, and election expenditure is for the most part a matter of forced habit and involuntary rivalry.

There can be no doubt that it is generally the wish of the respectable leading men in all constituencies to put down bribery and profligate expenditure at elections. They know and regret the bad effects on the classes which furnish the bribed, and must care something for the reputation of their own communities. But in this as in other matters, what is everybody's business is nobody's; no one initiates a reform; political opponents do not naturally come together to talk of joint action; there are those interested in keeping up the system; the election comes on, candidates spend largely because they cannot help themselves, following the habits of the place, and one doing what the other does, and bribery is practised at the last to win, or to meet bribery. In many boroughs compulsion is put upon candidates by inferior persons, having influence among the poorer electors which they use for their own profit, and encouraging large expenditure for the same object; where one such middleman of corruption exists on one side, his fellow is generally to be found on the other; these men might generally be overcome by previous concert between candidates and leading electors.

It is to be expected that these agreements, deliberately made between gentleman and gentleman, and comprising the leading supporters on each side, would in general be honourably and completely fulfilled.

Public meetings might, if necessary, be held in constituencies to promote the desired end: in some cases, perhaps, a body of electors of different politics might act together to require from the candidates and leaders on both sides solemn promises to abstain from corrupt expenditure. I

should look for much aid from the clergy both of the Church and of the dissenting bodies for this movement in constituencies.

In many cases, parties will remain in the same relative position in constituencies after such an agreement. Candidates will save their money, the cause of public morality will gain, and the result of the election be the same. In other cases where a candidate could only gain his end by bribery, he and his party will make up their minds to lose by the agreement only what could not be securely won (for there always remains the danger of an election petition and its consequences); and what one political party loses in this way in one constituency, the other will probably lose in another. The balance of parties will probably be little affected on the whole. In some of the many boroughs, where parties are nearly balanced, and a small corrupt phalanx turns the scale (and some of these are among the worst cases of corruption), there will probably be compromises, by which each party will obtain an uncontested seat. Here again the cause of public morality will gain, and the peace of the borough will be secured; and in these cases of nearly balanced parties a large minority, which a few accidents or more care in succeeding registrations might convert into a majority, has a fair claim to a share of the representation. Such compromises occurring in several constituencies would probably not disturb in the end the balance of parties. This may be considered a low mode of treating the subject, but it is well to endeavour to conciliate political partisanship.

All the money comes from candidates and wealthy

supporters. If these can be got by agreement to abstain from spending money, there will be no corruption.

A witness before the Committee of the House of Commons of 1860, on the Corrupt Practices Prevention Act, a gentleman of large experience in elections, Mr. Philip Rose, used a phrase in recommending suspension of writs for corrupt boroughs, which I would appropriate. Mr. Rose said, "I should treat a venal constituency as I would a drunken man, I would take away the stimulant in the hope that it would recover; and if Wakefield or Gloucester, for instance, were kept without their members for five or ten years, a new class of voters would arise in those boroughs, and corruption would be very much lessened." Now this is my plan, to take away "the stimulant." I propose to invite and incite candidates through the country to co-operate and combine to keep "the stimulant" in their own pockets. The suggested agreements and compromises will take away "the stimulant." Habits of corruption may then die away by disuse, and the appetite for bribes decay for want of the food which it has fed on.

Let us ascend from the leaders of constituencies to the leaders of parties. It is generally known that there is an organization for promotion of elections at head-quarters in each party, and that, on the occasion of a general election, there have been always large subscriptions on the side of the Government and on the side of the Opposition. The Association might begin by addressing itself to the head of the Government and the leader of the Opposition, in order to obtain their co-operation in this movement, and assurances that they will urge those, with whom respec-

tively a word from either would be a command, and who influence many others, to abstain from everything which can excite or facilitate corrupt expenditure, and to give every aid in promoting agreements and compromises, whose object is to prevent corruption.

It is impossible to exaggerate what might be effected for the object in view by an agreement between the heads of the two great political parties, and by injunctions from both to the gentlemen who are in their confidence for the superintendence of elections, to abstain from and discountenance all such proceedings as have from time to time oozed out, and involved public men of high standing in suspicion and discredit; as sending down for candidates sums of money which can only be wanted for corrupt purposes, and communications with election agents, whose notorious and avowed business is traffic in corruption. The reports of the Sudbury Commission of 1844, the Committee on the Derby Election of 1852, and the Gloucester Commission of 1859, furnish examples of unhappy proceedings in which the names of men in high position are found in connexion with low election agents and gross corruption. One word from the Prime Minister to his political Secretary to the Treasury, and one like word from the leader of the Opposition to his superintendent of elections, could stop the mischief that comes from the London Committees, and that is a very large part of the whole. An agreement between the Prime Minister and the leader of Opposition for this purpose would be an example of the best augury and most potent effect for the proposed movement. Lord Palmerston spoke as follows, in

the House of Commons, on the 9th of May, 1842, as to the bribery which had prevailed in the general election of 1841, since when the evil has even increased, and successive legislative measures have, one after the other, proved abortive :—

"I speak it with shame and grief, but I verily believe that the extent to which bribery was carried at the last election has exceeded anything that has yet been stated within these walls. . . . If the inquiry be not as extensive as the evil, it had not better take place at all. These corrupt practices I hold to be one of the most dangerous symptoms of the times, tending more than anything else to sap the foundations of social order, and to undermine the Constitution, and I hold also that it is the bounden duty of Parliament to provide an immediate remedy for the evil."

Lord Stanley[1] said, on the same day :—

"No man deplores more deeply, or is prepared to censure more strongly, than I, the bribery and corruption in large towns and in small towns. There is no member of this House who will be prepared to go further in applying, if we can apply, an effectual remedy."

Let me add to these remarkable declarations of Viscount Palmerston and the Earl of Derby some words uttered by the late Sir Robert Peel on the occasion of the introduction of a Bill, by Lord John Russell, for the repression of bribery, June 6th, 1842. No words could more forcibly support my recommendation of agreements between candidates and leading politicians in constituencies.

[1] The late Earl of Derby.

"In every borough there are certain individuals who take a lead in all political matters, and altogether influence the electors in their respective places. Now, I believe that if these influential persons of both parties in boroughs set their faces against bribery, and came to an understanding to discourage all unnecessary expenses, they would do a great deal more towards the suppression of the evils complained of, than all the acts of the Legislature. I do not therefore underrate the law, but I think that good example and improved habits will more effectually lead to the diminution of bribery—its extinction I scarcely hope for—than any legislative enactment whatever; and I do hope that the leading men of the country will set their faces so effectually against it, that after the next general election, come when it may, there shall be little or no cause to complain on the score of bribery."

Patronage provides other modes of influencing votes at elections, less gross and palpable than bribery, and "lends corruption lighter wings to fly." This brings us to the subjects of our administrative system and party-government, admitted, I believe, to be within the limits of social science, but divided by thin partitions from the questions of passionate politics which here must be avoided. There are thoughtful men who regard the rivalries of party and the possession of large patronage by the Government for distribution among political supporters, as necessary to good parliamentary government. I cannot think this. I regard these things as defects and blots. One of the chief advantages, I conceive, of the system of examinations for appointments which has of late years made progress

among us, is its tendency to purify representative government. The full advantage can only be derived from free competitive examinations. The small places given away in all the boroughs and counties by the great public departments, the Treasury and General Post Office for instance, through political supporters, might be given as prizes of local examinations. A suggestion of this sort was made in 1844, some years before the first introduction of examinations into our administrative system, by the present Lord Grey (then Lord Howick) in the House of Commons, on the occasion of a motion by Mr. William Ewart, on public education. Lord Grey urged the institution by Government of periodical examinations in districts, for the benefit of schools of the lower orders, and added:—"Government might bring candidates to their examinations by holding out more substantial rewards to a few of the children. This could be done at no expense whatever. They all knew how earnestly situations in the lower ranks of the public service were looked for among the classes likely to send their children to these schools; and if a few such situations as those of tide-waiters, for example, were made prizes for perseverance, attention, and ability, the hope of winning them would attract great numbers of persons to the examinations. By a small sacrifice of patronage this important object might be attained."[1] I remember that I myself recalled attention to this suggestion in the House of Commons, on the occasion of another motion of Mr. Ewart's, in 1846, and then read an excellent passage in recommendation of it

[1] Hansard, July 19, 1844.

from a letter of Mr. Dawes, the Dean of Hereford,[1] then a clergyman in Hampshire, zealously promoting public education in his parish, which is printed in the Minutes of the Committee of Council on Education for 1845.[2] I believe this to have been one of the earliest, as it is one of the most practical suggestions of a plan which combines the advantages of extension of education, improvement of local administration, and lessening of electoral corruption. This plan of giving local appointments to local examinations has never been adopted. The plans which have been generally adopted, of appointment subject to an examination, and of nominations for limited competition, fall short of producing all the desired good. The patronage system remains. Patronage is even increased by the system of nominations for limited competition, each nomination being a favour. Members must still go to the Treasury to ask favours for their constituents, like the Roman clients thronging the patron's doorstep for the well-filled basket.

"Nunc sportula primo
Limine parva sedet, turbæ rapienda togatæ."

Constituencies can only be made thoroughly pure by removing all sources of corruption. So long as nominations can only be got by application to the Government, how can voters and Members help, or how can they be blamed for, making applications? How can the Government be expected, while the system remains, to favour their opponents?

[1] Dean Dawes has died since this paper was written.
[2] Hansard, July 21, 1846.

When, eighty years ago, Mr. Pitt had defied a large adverse parliamentary majority, and successfully appealed to a general election, and stood by the result on a supereminent pinnacle of personal ascendancy, one of his most attached and most celebrated friends, Mr. Wilberforce, thought (as it is recorded in his Life) that "he was then able, if he had duly estimated his position, to cast off the corrupt machinery of influence."[1] "Party on one side," said Mr. Wilberforce, "begets party on the other." The ungoverned fury of contending parties begets and perpetuates corruption.

The leader of a great party is in this matter in the same position and difficulty as a great many candidates for seats in Parliament, that he does not know all that is done by others. But this can hardly ever be altogether an innocent ignorance. Friends and supporters will not in the end do what the chief is really determined shall not be done. As it is, leaders and candidates are not told what goes on, and they do not inquire. Contented, like Wordsworth's poet,—

> "Contented if they may enjoy
> The things which others understand,"

they resign themselves not without reluctance and misgiving to this contentment; and the action of public opinion is needed to save them from it and its consequences.

To return to the subject of agreements to abstain from corruption; where any candidate or his committee should

[1] "Life of William Wilberforce," vol. i. p. 64.

refuse, on being formally applied to for the purpose, to join in such an agreement, he will be an object of suspicion. Amid the hubbub of a general election, the suggested Association may be a central eye to watch everywhere, and a central head and hand to aid in exposure and punishment through existing laws.

I have not mentioned coercion and intimidation, but these also may be regarded as forms of corruption, and the proposed agreements should include all illegitimate influences, such as of customer over tradesman, landlord over tenant, &c.

In a paper read by Mr. Chadwick before the Law Amendment Society, in February 1859, the collection of information on a large scale by a Commission as to existing constituencies in order to lay a basis for a measure of parliamentary reform was powerfully recommended. I have only to do here with so much of Mr. Chadwick's proposal as concerns corrupt proceedings. Men of all opinions on parliamentary reform will concur in an observation of Mr. Chadwick's that the Legislature cannot be in the best position for extending or lowering the franchise, until it has obtained full knowledge of the kinds of corruption prevailing in constituencies, and while so much corruption exists, and is even in some places increasing.[1] A similar opinion was intimated before the Corrupt Practices Prevention Committee by a gentleman, whose profession, experience, and well-known political opinions

[1] The late Sir James Stephens presided on that occasion, and made a most remarkable speech on the faultiness of our system of legislation, which was published with Mr. Chadwick's paper.

give peculiar value to his statement. I refer to Mr. Joseph Parkes, who said, "A certain class of boroughs are much influenced by attorneys on both sides, and also by the licensed victuallers and beerhouse keepers, which latter I consider the most growing evil of the day, *particularly if the franchise is to be lowered.*" The suggested Association may do the work of Mr. Chadwick's proposed Commission, as regards corrupt practices, by collecting information about bribery and corrupt expenditure. By printing and widely circulating facts as to corruption in constituencies, it will do further good,—strengthen the feeling against the existing evils. The misdeeds of corrupt constituencies may thus be widely made known for shame, and in the same way the conduct of pure boroughs, returning members in the public-spirited manner mentioned by Mr. Mill, may be held up in tracts widely circulated for general admiration and example.

In constituencies like the large metropolitan boroughs, where there is no purchasing of votes with coarse money bribes, it would well become leading men to combine to regulate and limit expenditure, the greater part of which leads to virtual corruption, and which has often notoriously become so large in amount as to deter candidates. In the evidence already referred to, taken by the Committee of the House of Commons of 1860 on the Corrupt Practices Prevention Act, there are many interesting and instructive particulars as to the corruption involved in general expenditure, showing, what perhaps does not need to be shown, how voters who let carriages are secured by hiring their conveyances, printers by lavish printing, publicans

by refreshments to supporters and hire of committee-rooms, and how an unnecessary number of voters and their relations are engaged as paid canvassers, messengers, &c. &c. These expenses, which the fury of election rivalry carries beyond bounds, might, by agreement between the leading men of a large borough solicitous for its political reputation, some of them be got rid of, and others reduced to the limits of necessity.

Mr. James Vaughan, who was the chief commissioner for the inquiry in 1859 at Gloucester, strongly recommended the prohibition of paid canvassers, and limitation of messengers. A great deal of this might be effected by agreement. It would be, in the long run, the same for both parties. "In the evidence we received," Mr. Vaughan said, "we found 112 messengers employed on the one side, and 150 on the other, and it was stated that ten or twenty could do the work."

Mr. Vaughan also conducted an inquiry at Tynemouth, in 1852, and says: "There were 882 on the register, and 669 polled; the publicans who voted were 108, and in that case we found scarcely a single instance where there were not either refreshment orders, or dinners, or suppers provided by the publicans, and the publicans were wavering backwards and forwards as they received a good order from one party or the other."

Mr. Vaughan says of paying expenses of voters from a distance: "We found at Gloucester there were a great number of voters brought up upon either side, and the result was that the expenses to the candidate were largely augmented, with no practical result as regards the success

of the candidate; there would be ten men brought up on the one side and ten on the other."

I should think that in large boroughs where public spirit prevails, there might often be no difficulty about the appointment of a Committee, having the confidence of the whole constituency, to regulate the mode of conducting elections, with a view to limitation of expenses and suppression of corruption; and he would be a rash candidate who would not thankfully abide by the rules.

In large boroughs, in the metropolitan boroughs for instance, a great deal of good might be done by organization among the electors of one party—say the Liberal party, which usually predominates in the metropolitan constituencies: but it is men of leading influence who must initiate the organization. The inferior standard of the generality of metropolitan members has often been a reproach to the London constituencies. The size of the boroughs makes combined action more difficult. If there were more co-operation and organization for the selection of a good candidate, and for securing his election, the number of rival candidates would be diminished, and less rivalry would be quickly followed by less expenditure; there would be less hope for the rich man who trusts only to his riches, and for whom it is now often easy to strike in and win by lavish and demoralizing expenditure.

The limitation of the number of attorneys employed to one for each candidate was strongly recommended by Mr. Pigott, the present Judge. Of the employment of attorneys, he said: "I am sure that it leads to undue influence. If you employ attorneys, they have influence over a great

number of voters; in a borough particularly. Some are debtors, some have mortgages, some expect a lawyer's letter; in one way or another there are numerous modes in which an attorney has influence over voters." Mr. Vaughan said on the same subject: "We found that there were a large number of solicitors employed at Gloucester. Solicitors know a great deal about people in a town, and they are no doubt employed in consequence of the influence which they can bring to bear. I recollect that one voter mentioned he felt he must vote on a particular side, because the solicitor on that side had a mortgage on his cottage." Mr. Joseph Parkes, a distinguished member of the profession, and most experienced manager of elections, strongly protested against payment of attorneys as agents, and made the following statement. "I think that it is an evil to the public and an evil to themselves [to pay solicitors as agents]; nearly all the professional men in towns and counties act gratuitously. I myself, after 1826, never took a fee in my life, and I never would. I know all the valuable agents in Warwick, in Coventry, and at Birmingham, and I know that at the town and county elections, most of them, whether upon the Conservative side, or upon the Liberal side, are volunteers; they are the men who do the work, and it is the class of the young solicitors, and the class of generally inferior men, who do a great deal of mischief, and incur useless cost. I should wish to state only one reason why I should object to the employment of solicitors. It is notorious that every agent causes more people to vote in consequence of the fee given to him, and I think it is a gross anomaly, that, because he is a lawyer,

he is to be receiving the candidate's money; you might just as well give a fee of fifty guineas or five guineas a day to a medical man, who would be equally influential. A general practitioner, from his influence among families, would bring up more people to vote than even the lawyer could. How absurd it would be that you should retain a surgeon! Why should the legal profession alone be a paid class? I take it to be a custom fraught with evil."

There is no class of men whose co-operation would be so important as that of solicitors in a general movement for the diminution of election expenditure and the destruction of corruption. Other eminent solicitors versed in elections gave evidence before the Committee, Mr. Rose, Mr. Clabon, Mr. Drake, and others. The members of the profession throughout the constituencies, animated by the spirit and example of these witnesses, would be invaluable aids for the proposed Association.

I will only mention the notorious fact of a great increase of corruption in many boroughs by corrupt practices at the annual municipal elections. Mr. Philip Rose speaks of the municipal contests as the "nursery of the evil." He says: "These oft-recurring contests have led to the establishment of what I might almost term an organized system of corruption in the municipal boroughs throughout the kingdom, which provides a machinery ready made to hand, available when the parliamentary contest arrives. I am sure that if members of parliament on both sides of the House will inform the Committee accurately, it will be admitted that the great strain upon them by their constituents is not so much for the support of charities or public institutions, as

it is for the support of the municipal contests in November, the argument invariably being, on the part of the local agents, that 10*l.* spent at a municipal contest is better and more advantageous than 100*l.* spent at the parliamentary contest." Other witnesses called attention to this subject. Boroughs rapidly get worse and worse under an annual administration of "the stimulant" at municipal elections; and a strong impulse from without for local organization against corruption becomes more and more necessary.

Sir Erskine May's condensed account of the general results of the inquiries which have been prosecuted by Commissions since 1852 is a painfully striking statement:

"At Canterbury, 155 electors had been bribed at one election, and 79 at another; at Maldon, 76 electors had received bribes; at Barnstaple, 255; at Cambridge, 111; and at Kingston-upon-Hull, no less than 847. At the latter place, 26,606*l.* had been spent in three elections. In 1858, a Commission reported that 183 freemen of Galway had received bribes. In 1860, there were strange disclosures affecting the ancient city of Gloucester. This place had been long familiar with corruption. In 1816, a single candidate had spent 27,500*l.* at an election; in 1818 another candidate had spent 16,000*l.*; and now it appeared that at the last election, in 1859, 250 electors had been bribed, and 81 persons had been guilty of corrupting them. Up to this time, the places which had been distinguished by such malpractices had returned members to Parliament prior to 1832; but in 1860, the perplexing discovery was made, that bribery had also extensively prevailed in the populous and thriving borough of Wakefield, the creation

of the Reform Act; 86 electors had been bribed, and such was the zeal of the canvassers, that no less than 98 persons had been concerned in bribing them."[1]

And how many more boroughs may there be equally steeped in corruption which have escaped inquiry? Let the leaders in all such boroughs, if they care for the reputation of their towns, bethink themselves that detection may another time fall on them. The above statement, in a work which will live, casts discredit on English civilization. Should not every effort be made to diminish such an evil? Every Act of Parliament proves inoperative. May not the evil increase?

The Association might also make it one of its objects to consider, prepare, and urge measures for restraining bribery and expenditure, which require the interposition of the legislature; and among such measures which have been from time to time suggested, are a comprehensive declaration for members on taking their seats, so framed as to prevent evasion by a man of honour, and the plan of taking votes by voting-papers collected from the voters' houses, which has been often strongly pressed by Mr. Chadwick, and was recommended by Mr. Philip Rose in his evidence before the Corrupt Practices Prevention Committee, which was the subject of a bill proposed by Lord Shaftesbury in 1853, and was introduced into the Reform Bill proposed in 1859 by Lord Derby's Government.

But the great object is to rouse an enthusiasm against electoral corruption, and to cover the country with it, and to carry it into every constituency. We have this advantage

[1] May's "Constitutional History of England," i. p. 364.

to begin with, that the moral sense of the nation already unmistakably condemns bribery. There is no need to create a feeling; we have to intensify it, and to make it conquer. It is only among inferior people who profit by corruption, and whom temptation and habit have degraded, that there is any insensibility or want of conscience on this subject. The classes from which candidates for seats in Parliament come, are entirely opposed to bribery. Suggestions have latterly often been made for the application of degrading punishment to candidates convicted of bribery, which could never have been put forward, if bribery were not condemned by opinion. Such punishments were recommended by several witnesses before the Corrupt Practices Prevention Committee, among others by the present Baron Pigott. This distinguished witness recommended that the punishment should be incapacity from holding any office of trust or public employment.

Let us make one great endeavour to attain the desired end by a large plan of co-operation for prevention by persuasion and agreement. I have thought that such an effort might well be made, at this moment, under the auspices of an Association, whose object is to utilize social science and promote all social reform, which numbers among its members leading men of all the parties that divide the State, and the name of whose President[1] is already conspicuously associated with this question.

[1] Lord Brougham.

IV.

ELECTORAL CORRUPTION AND ITS REMEDIES.

"These corrupt practices I hold to be one of the most dangerous symptoms of the times, tending more than anything else to sap the foundations of social order, and to undermine the Constitution."—VISCOUNT PALMERSTON, *May* 9, 1842.

"There are no defects in the distribution of the franchise, however unjust, which are so destructive of public virtue or of the credit of our representative system, as these acts of bribery and corruption."—LORD JOHN RUSSELL, *February* 11, 1853.

"So far from diminishing, the evil is on the increase, and has perhaps been practised more generally at the last than at any other previous election."—EARL OF DERBY, *May* 29, 1866.

INTRODUCTORY NOTE.

ONE great fault of the unsatisfactory Bill of Parliamentary Reform of 1866, which broke up Lord Russell's government, was the absence of adequate or of any considerable endeavour to deal with corrupt practices at elections. It contained only one small proposal for that object, which was unjust and preposterous,—the disfranchisement of voters in dockyards on account of their subjection to Government influences, the exercise of which is the voters' misfortune, and the fault of governments. Election petitions tried in the course of the session of 1866 led to the issuing of Commissions to inquire into electoral corruption in the four boroughs of Totnes, Reigate, Great Yarmouth, and Lancaster. The foul revelations of election iniquities in these boroughs shocked and excited the public mind: and when Lord Derby's government met Parliament in the beginning of 1867, a new measure against election corruption was a necessity. The Government proposed a Reform of the Representation Bill, and another Bill for the repression of Corrupt Practices at Elections. The first was passed during that session. The second, considerably changed and improved from the first proposal, became law in the ensuing year, 1868.

The following essay was published before the meeting of Parliament in 1867. The state of things which it describes is what existed before "The Representation of the People Act" of 1867, and "The Parliamentary Elections Act" of 1868.

In the course of the discussions in the House of the latter measure, Mr. Mill described and strongly recommended the scheme of reform propounded in the following essay, and referred in complimentary terms to the author.[1]

Some changes have been made by the two Acts of 1867 and 1868, which affect several of the arguments and recommendations of this essay.

The Representation of the People Act contained a clause prohibiting electors employed for payment six months before an election from voting, and making the voting a misdemeanour. The same Act made it illegal, in boroughs, to pay money on account of the conveyance of a voter to the poll, either to a voter or to any other person, and subjected the violator of this law to punishment. Prohibition in both cases was recommended in the following essay. But enough has not been done to enforce the prohibition in either case. The only effectual mode of prevention is by voiding the seat if voters paid for employment vote for their paymaster, or if a candidate or agent gives money for conveyance of voters. This is the deliberate opinion of all the three Judges who tried the election petitions which immediately followed the general election of 1868,—Mr. Justice Willes, Mr. Justice Blackburn, and Baron Martin, —as given in evidence before the Parliamentary and Municipal Elections Committee. All three think mere penalties after prosecution inoperative: the fear of losing

[1] Hansard, March 26, 1868.

the seat is the only effectual deterrent. Mr. Justice Willes, speaking particularly of Section 11 of the Representation of the People Act, which makes the voting of voters employed for money by a candidate a misdemeanour, calls it "nugatory and exceedingly lame," and adds, "It appeared to me to be quite insufficient, because the voters will vote, and it is a chance whether it turns out that they have been paid; and if it does turn up, then for the reason stated by my Brother Martin, no one would take the trouble of indicting them." Baron Martin expressed his desire that the Judges should have power to void an election in case of several proved breaches of the law by a candidate or his agents, which the Act made only liable to fine and imprisonment on prosecution.

The Parliamentary Elections Act of 1868 introduced an entirely new mode of trying election petitions. Under that Act the petitions are tried by Judges of the Superior Courts, who go to the respective county or borough to try them in the scene of election. But while this plan is obviously a great improvement on the old system of Parliamentary Election Committees at Westminster, the new measure is very defective, as leaving the discovery of bribery, almost as exclusively as before, to the action of a defeated candidate or his friends, able and willing to incur all the expenses of a petition and impelled to do so by the hope of obtaining the seat, and also as comprising no new provisions for prevention during the progress of the election of corrupt or lavish expenditure. The scheme suggested in this essay proposes that properly qualified barristers should be returning officers and also judges of the elections, with powers of supervision and control at the time and of summary judgment between the polling and the return: reserving a

power of appeal which, it is here proposed, should be to a Committee of the House of Commons, aided by a legal assessor. When this proposal was made, it was not expected that the House of Commons would consent to part with its power over elections. It did so in the Act of 1868, and transferred its jurisdiction to Judges of the Superior Courts. It may now be easier to induce the House of Commons to substitute duly qualified barristers for the Judges for first trials, and give an appeal on points of law to one of the Superior Courts, or to a special tribunal composed of Judges of the three Courts.

With this modification, which would be a decided improvement, I again strongly urge the adoption, in its main features, of the plan described in this essay, which in 1868 was unsuccessfully pressed by Mr. John Mill upon Mr. Disraeli's government.

It is one of the advantages which have resulted from the trial of election petitions by judges, that the law of election agency, the former unsatisfactory state of which is spoken of in the following essay, has been clearly and satisfactorily settled by concordant judgments.

ELECTORAL CORRUPTION, ETC

A PLAN was put forward in 1864, under the auspices of the Association for the Promotion of Social Science, which included an endeavour to organize in all constituencies committees composed of leading men of different politics for restraint of corruption and expenditure, and to promote agreements between opposing candidates and leaders of parties in constituencies to abstain from and prevent bribery. Some weighty words of Sir Robert Peel, delivered as long back as 1842, were used in support of this proposal. "In every borough there are certain individuals who take a lead in all political matters, and altogether influence the electors in their respective places. Now I believe that if these influential persons of both parties in boroughs set their faces against bribery, and came to an understanding to discourage all unnecessary expenses, they would do a great deal more towards the suppression of the evils complained of than all the acts of the legislature."[1] It was the hope of those who attempted the movement of 1864 to establish a central Association, strong with the

[1] Hansard, June 6, 1842.

authority of distinguished names, and sufficiently supplied with the pecuniary means indispensable for extensive and effectual action, through which, a general strong feeling or enthusiasm being roused and fashion enlisted on the side of purity of election, the requisite impulse might be given in the several constituencies. Sir Robert Peel, in the speech already referred to, had looked to "the leading men of the country" to give the critical impulse. "I do hope," he added, "that the leading men of the country will set their faces so effectually against bribery that, after the next general election, come when it may, there shall be little or no cause to complain on the score of bribery." These words, as has been said, were spoken in 1842. There have since been five general elections, and all five have been disgraced by extensive and scandalous corruption. In April of this year the disclosures of some of the Election Committees, tame enough in comparison with the later revelations of the Commissions of the autumn—which again, however, are not more striking and revolting than those of previous Commissions—led a writer in the *Times* to enunciate very similar ideas,—that "nothing but a thorough awakening of the national conscience on this subject will deter men of no more than average scruples from doing as others have done," and that bribery will be cured only "when high-minded and honourable men cannot be found to become candidates for seats which can only be attained by bribery, and *when the more respectable electors league themselves together, without distinction of party, to baffle and crush it.*"[1] But in boroughs like those which Commissions

[1] *Times*, April 24 and 26, 1866.

have lately been investigating (and it is well known that there are many others just as bad which have escaped inquiry), it is obviously a hopeless task for any few righteous men that may exist within these political Sodoms and Gomorrahs to purify dense masses of corruption without external aid; a strong and general movement from without is needed to fortify, if not to initiate, any reforming efforts within.

There appeared in the *Times* of September 7 an interesting letter signed M.P.; and the writer describing himself as having sat, since the passing of the Reform Act, for a borough in the West of England, with a population of about thirty thousand, and a constituency of from twelve to thirteen hundred, it is not difficult to identify him as a Liberal member of the House of Commons of high character and varied attainments.[1] The writer of this letter proclaims the purity of his own borough, and puts it forward as an example of the efficacy of a high moral tone among the leading inhabitants. "I do not hesitate to affirm that the chief, if not the only, cause of the total absence of corruption in this particular borough has been the determination of the leading gentlemen of all parties within it, indeed I may say of the entire mass of inhabitants, to preserve a high tone of public morality, to set their faces against any attempt to stain the character of the constituency, to ostracize any voter who should try to make private profit of the public trust confided to him." Now this is all very well in the borough of Stroud, where, as is said by the writer, the great bulk of the constituency has always

[1] Mr. G. Poulett Scrope, since dead.

been pure, but who is to begin the work of purification with hope of success, unaided, in Totnes or Reigate, Great Yarmouth or Lancaster? With a strong national excitement caused by a central agitation, with "a thorough awakening of the national conscience," such as these Commissions which have been sitting might well produce, or which might have been produced by equally shocking disclosures of previous years; with well-directed systematic efforts through the constituencies carried on as efforts are now being carried on in every borough to effect a lowering of the suffrage, there might be hope of turning generally to profitable account the following excellent advice of M.P. in his letter to the *Times*:—"Above all, let the educated and respectable dwellers in parliamentary boroughs rouse themselves to the conviction that it is their fault, and theirs alone, if the reputation of the place they inhabit becomes infamous through these foul and criminal practices, and the very foundation of all morality, private as well as public, is destroyed by their cynical encouragement or indifference to them."

The scheme of 1864 for an organization for a general crusade against corruption in constituencies was soon abandoned, and the objections and difficulties under which it succumbed may be usefully reviewed, as they are the objections and obstacles which confront all proposals of remedy.

It was objected to the effort of 1864 that the extinction of bribery was an Utopian dream, and that to extinguish it was simply impossible. This is a very old and common, and yet a very obvious, fallacy. Perfect success is seldom obtainable in any enterprise, and all that was proposed or

hoped for was greatly or considerably to diminish corruption. Sir Robert Peel, in that speech which has been already cited, also said, "I think that good example and improved habits will more effectually lead to the diminution of bribery—*its extinction I scarcely hope for*—than any legislative enactment whatever." It is no answer to those who propose to diminish, to say that they cannot destroy. The same objection has been made to the Ballot, but its reasonable advocates have never pretended for it more than that it would greatly diminish illegitimate influences. So of a proposal made by Sir John Pakington in 1849, for a declaration to be made by a candidate, it is not difficult to make out that it would not always be successful, but it might still do a great deal of good. "Half a loaf is better than no bread." This objection is so obviously inconclusive that, while many doubtless have advanced it unthinkingly, many must use it as a pretext.

In an organization for influencing the public mind on this question, the co-operation of a considerable number of members of the House of Commons is of prime importance —of members of eminence to give authority, and of members generally to facilitate the good work in their respective constituencies. This is a question in the agitation of which Peers would feel scruples as to taking a prominent part. But, while a few members of the House of Commons of both political parties joined the movement, the generality kept aloof. The truth is that, with a general prevalence of corrupt practices of one sort or another in constituencies, there are few members who might not foresee some difficulty with influential supporters through their joining such

a movement, or might not shrink from incurring the strict and solemn obligation to prevent all corruption in connexion with their own elections, which would arise out of membership of an anti-corruption association. It need not be said that many members sit in the House of Commons through the operation of corrupt practices, either studiously "knowing nothing," but yet strongly suspecting and perhaps even virtually knowing, or really not suspecting or dreaming of anything wrong. Even in the last class of cases, knowing supporters would be unwilling to see their members committed to a general crusade against corruption. Then again, there are several modes of corruption besides gross money-bribery, and local managers of elections, who may conscientiously say that there is no "bribery" in the limited sense of the word, may yet find profuse expenditure necessary to secure a return, or they may have an interest of their own in keeping up this profuse expenditure; and members who wish to keep their seats cannot always interfere with, or afford to risk to offend, their leading committeemen. Candidates are by no means always free agents; the established "manager" for the party in the borough, or the regular leaders of the committee, are often despotic, and will manage the election their own way, and kick at a candidate's interference. To gain or to keep a seat in Parliament is a matter of strong desire; but the desire of local party-chiefs to gain the election is also strong, and is with them an independent motive of action. Now all this is said to show that members, who might in simplicity be expected generally to guide their constituents, may often be oppressed by them; and the same local exigencies which

baffle the free action of members would be impediments for any inhabitants, themselves standing apart from and above impurity, who would desire to purify their boroughs. The same circumstances will contribute to explain the slackness of zeal on this subject in Parliament, but for which assuredly by this time the evil so long known would have been "stamped out." Then again, where, as is often the case, both sides are tarred in a borough, there is a disposition to combine to keep things quiet, and not to employ the remedies which the Legislature has provided, such as criminal prosecutions and actions for penalties and petitions, to say nothing at present of other difficulties in the way of these remedies. For many reasons, then, Members of the House of Commons are, as a rule, not disposed to rush forward on this question. Let the system be changed; well and good, all will rejoice; but while the system is unaltered, each is more or less unwilling to take any step which may risk the loss of his own seat, highly prized, and attained perhaps after much waiting and by much labour and expense. And is the value set on a seat in the House of Commons unnatural and inexcusable? Is it strange that in order to gain or keep a seat men of fair character will reconcile it to their consciences not to see many things which they need not see, and not to make themselves suffer by being more scrupulous than most others? What is a seat in the House of Commons? It is not only a possible gateway for some to society or to lucrative office; that is the least part of the temptation; it is a necessary condition of political life and political usefulness and political power for all Englishmen who are not Peers. Without a seat in Parliament no man,

however rich or high-born or able, can be a member of any Government, or aspire to the political offices which spur the ambition of English statesmen. The loss of a seat may, even with men of high reputation and great connexions, make a long break in a political career. When Lord Palmerston lost his seat for Hampshire in 1834, it was not without some difficulty, though he was Foreign Secretary, that he found, after a time, a convenient refuge at Tiverton. When Mr. Gladstone lost his seat for Newark in 1845, he remained for some time out of Parliament. These are men of the highest mark. What must it be for the multitude? Apart from political office, participation in parliamentary life and its opportunities of usefulness and fame is a laudable or noble ambition. We may therefore look with some indulgence on cases of submission to existing circumstances and to an apparently unshakeable enthronement of evil.

Mr. George Denman, in his late Address at the Manchester meeting of the Association for the Promotion of Social Science, signalized another now prevalent form of paltering with the conscience on this matter. Urging the necessity of a higher tone in high quarters, he observed that "members of the House of Commons must be more unanimous in the feeling that to pay thousands of pounds down without inquiry, in order to secure a seat which their own agent will return as a seat which costs him only as many hundreds, is an act unworthy of a gentleman." This is strong language and just. Yet there is a singularly accommodating power in men's consciences, under the influences of strong interest and passionate desire, contagion of general laxity, and encouragement given by a general dis-

position, amiable and not quite unreasonable, to condone in individuals what, in the abstract, none refuse to reprobate. This evil of electoral corruption has taken hold of the nation like a nightmare; the victims desire to get rid of it, but they are bound down and cannot move. A strong excitement or enthusiasm, such a whirlwind as "fitliest scatters pestilence," is needed to clear the air and enable a sick multitude to breathe freely. As the *Times* said, we must have "a thorough awakening of the national conscience to deter men of no more than average scruples from doing as others have done," and "high-minded and honourable men from becoming candidates for seats which can only be attained by bribery."

An opinion prevails that there is a disposition among what are called the governing classes to keep up the expensiveness of elections as a virtual property qualification; and large expenditure and corruption are really inseparable. This opinion is probably much exaggerated, and reluctance to deal with this subject may be partly otherwise accounted for. It is difficult to believe that any one, if free to choose, would not prefer a cheap to a dear election. If elections were cheaply conducted, and bribery banished, the chances of election in boroughs for country gentlemen, members of old families, men creditably known in their neighbourhoods, and men also of personal merit, though not locally connected, could not but be increased. The losers by the change would be the new men of wealth, the class of borough-seekers from a distance, who have nothing but money to recommend them, and who outbid all men with moderate fortune, and swamp all local claims

with long purses and large patronage in boroughs open to corruption. There is nothing new under the sun, and in the first beginnings of corruption of constituencies, when, two centuries ago, the House of Commons sought to legislate against the new evil, we find a member saying that "these charges arise, commonly, from competitors that live in another country," and that the residents "must be undone by out-doing him that comes from another country with indirect intentions;" and there was then a general desire to exclude strangers by requiring that all candidates for boroughs as well as counties should have an estate in the respective county.[1]

Many persons say that they feel a difficulty about this question, thinking it unjust to denounce and punish the poor man who takes ten or twenty pounds for his vote, and to eave untouched the attorney who requires his fees, or the gentry, small and great, who profit by getting places. Many also use this seemingly plausible argument as a pretext for inaction which they find convenient. This objection involves a confusion between two evils which are distinct, and in a great measure independent of each other. If attorneys desert their politics for a retaining fee, or if voters are bribed to vote by gift or promise of places, this is pure bribery; and no one could distinguish between such cases and cases of bribery with money; any measures against bribery at elections must apply to all these cases. But the attorney rarely changes his politics for the occasion. If the candidate of his own colour re-

[1] Debates on regulating of Elections, Jan. 22, 1674; Nov. 12, 1675.—Parl. Hist. iv. 658, 783.

tains him, he works and votes for him; if not, he does not act for the other side. It need not be said that there are very many solicitors who are far above this sordid mode of proceeding, as there are doubtless some who are more sordid, and are ready to go whichever way they are retained. Now it is very desirable to get rid of the practice, utterly indefensible and degrading to solicitors, of retaining them as election agents and procurers of votes; but the question of bribery may be separately dealt with. So, again, there is a difference between bribing with patronage and finding places for steady supporters. The former comes within the scope of our subject: the latter, so far as Government patronage is concerned, is part of a separate important subject,—our system of party and patronage. Some of the evils of this system have been well described by Lord Grey, who calls it a system of corruption, but yet seems to regard it as inseparable from Parliamentary Government.[1] Whether this be so or not, there is a palpable difference between bribery of voters and distribution of favours, from a dukedom or garter, or from a colonial government to a nomination for a clerkship or tidewaitership, among political friends; and we may endeavour to get rid of the scandalous evil of wholesale corruption in borough elections, without attacking the question of government by party.

The Government machinery of course may be put in motion for bribery, as it has been done systematically among voters in dockyards; and here the obvious remedy

[1] "Parliamentary Government," by Earl Grey: Chapter on Evils and Dangers of Parliamentary Government.

is not the strangely unjust proposal of the Bill of last session to disfranchise a whole class peculiarly open to demoralization by the Government, but to ensure (which should be easy) action of the First Lord of the Admiralty, who is a member of the Cabinet, to purify dockyard administration from all political influences. If there is corruption among Government-dockyard voters, it is the Government which corrupts; the straight and easy way is to stop the evil at its source, which is the Government itself; and the threatened dockyard victims of Treasury and Admiralty jobbery might fairly have said to Lord Russell, "Physician, heal thyself." It is also, of course, likely that favours granted by Government to parliamentary supporters for their constituents may be used for bribery; and it may be more difficult sometimes to detect or defeat bribery of this sort than the vulgar money bribery: but this only brings us back to what has been said before, that we may do a great deal, though unable to do everything, and because we cannot do everything is no reason for doing nothing. There is a Government machinery for superintendence of elections, arising out of our system of party government, which doubtless fosters and strengthens the corruption of elections; the political Secretary of the Treasury has his election agent, who again has his myrmidons in London and throughout the country; and the Opposition "whip" has a corresponding organization. As long as there are two political parties, some organization on both sides may be a necessity. But considering that the heads of the two organizations are the actual and the future (or late) Prime Minister, the chief agents the actual

and future (or late) Secretary of the Treasury, and the chief assistants London solicitors of high standing, it should be easy for the leader of either party to secure scrupulous adherence to what is right, and scrupulous abstinence from all connivance at impurity and all connexion with persons of doubtful or disreputable character. Yet we have lately seen the "private and confidential" correspondence produced at Totnes between the head electioneering agent of Lord Derby's party, Mr. Spofforth, and "my dear Sir," "Robert Harris, Esq.," the Tory briber of Totnes, containing these passages:—"Failing Mr. Dent, I will endeavour to procure you a commercial man of the spirit you require."—"The only difficulty is finding a man with plenty of money to carry the seat." Mr. Spofforth, when afterwards called before the Commissioners, said that he had not known, at the time of his correspondence with "Robert Harris, Esq.," what manner of man Robert Harris was. But Mr. Spofforth must have known what was meant by what he himself wrote of "a man with plenty of money to carry the seat," and of the "spirit" required for Totnes. The heads of both parties should, as they easily could, stop all this semi-official subornation of corruption.

The magnitude of the scandal of our electoral corruption has been so broadly asserted by leading statesmen during so long a period,—indeed, ever since the passing of the Reform Act,—that it may well be matter of wonderment that we are where we are in this matter in the year 1866. Not to go back further than 1842 for authoritative declarations of widespread and gross electoral corruption, Mr.

Thomas Duncombe, early in that year, inquired of Sir Robert Peel, whom the general election of 1841 had brought back to power at the head of the Conservative party, if the Government intended to introduce any measure for putting an end to "that wholesale system of bribery to which he believed the vast majority of the members of that House were at present indebted for their seats."[1] Later in the session Mr. Roebuck's famous Committee to investigate a number of cases of corrupt elections, which had led to compromises between petitioners and sitting members, produced a startling sensation; and, in the discussions which followed, Lord Palmerston and Lord Derby (then Lord Stanley, and in the House of Commons) both spoke out. Lord Palmerston used these words:—

"I speak it with shame and grief, but I verily believe that the extent to which bribery was carried at the last election has exceeded anything that has yet been stated within these walls. These corrupt practices I hold to be one of the most dangerous symptoms of the times, tending more than anything else to sap the foundations of social order, and to undermine the Constitution; and I hold, also, that it is the bounden duty of Parliament to provide an immediate remedy for the evil."

And on the same day on which these words were uttered by Lord Palmerston, Lord Derby said: "No man deplores more deeply, or is prepared to censure more strongly, than I, the bribery and corruption in large towns and in small towns. There is no member of this House

[1] Hansard, February 4, 1842.

who will be prepared to go further in applying, if we can apply, an effectual remedy."[1] But after the lapse of four-and-twenty years Parliament has not provided the remedy for the evil which Lord Palmerston, in 1842, declared to be its bounden duty to provide immediately; and Lord Derby has now the opportunity of making an earnest effort in the coming session, and thus gaining an advantage, which would be to his honour, over his predecessor, who omitted the subject in last year's Reform Bill. After the general election of 1847, Sir John Pakington questioned Lord John Russell, as Mr. Duncombe five years before had questioned Sir Robert Peel, asking if the Government intended to propose any measure "in consequence of the extent to which bribery and corruption were imputed to have prevailed at the last general election."[2] Lord John Russell replied, at the moment, that the Government had no such intention. But the usual disclosures of the Committees arising out of a general election produced the periodical fever against corruption, which has so often appeared and passed away; and, during the session of 1848, public opinion influenced Lord John Russell to make an attempt at legislation. Sir Robert Peel, holding then the position of an impartial and dignified arbiter, had made a further strong appeal to the Government, saying, "I retain the opinion that it was the duty of the noble lord (Lord John Russell) to make some proposition to the House, when there was such a multitude of instances of gross corruption brought under our notice, with a view of

[1] Hansard, May 9, 1842.
[2] Ibid., November 25, 1847.

instituting some new inquiry."[1] This was on the occasion of a motion for issuing a new writ for the borough of Derby, in which an election committee had reported extensive corruption; and in the same debate Mr. Cobden had said, "From an investigation I have made, I am sure that the majority of members of boroughs sent from England to this House are returned either by bribery, or corruption, or patronage. That is my deliberate opinion, after having taken pains to look into it." Lord Brougham said, August 21, 1848, that "it was absolutely necessary, for the honour of Parliament as well as for the morality of the country, that a stop should be put to the practices which commonly prevailed all over it at elections, and never to such an extent as at the last." But bad as was, in Lord Brougham's estimation, the general election of 1847, he afterwards pronounced the next, of 1852, to be worse; saying (February 25, 1853) that "there had hardly ever been a general election in this country at which more bribery and corruption had prevailed than at the last; he feared he might go further and say, so much had prevailed on no former occasion." The general election of 1852 was under Lord Derby's auspices, and that of 1847 had been under Lord John Russell's. On the eve of the general election of 1852, Lord Derby had again spoken out as to the evil,—"the extended, and he feared he must add, the extending system of bribery at elections."[2] On the 11th of February, 1853, Lord John Russell, then acting as leader of the House of Commons in Lord Aberdeen's Government, spoke as follows: "There are no means of

[1] Hansard, June 23, 1848.

[2] Ibid., March 22, 1852.

Parliamentary representation, however partial and limited, no defects in the distribution of the franchise, however unjust, which are so destructive of public virtue or of the credit of our representative system, as these acts of bribery and corruption."

It is needless to carry on the history of our electoral corruption from the general election of 1852 through those of 1857 and 1859, to the last of 1865. The strong declarations of former years of Sir Robert Peel, Lord Palmerston, Lord Derby, Sir John Pakington and others, still apply. Mr. Baxter, the member for Montrose, made a statement during the last session, the truth of which will be universally admitted:

"It was not into the existence of the evil that they needed to inquire, but into the remedy. He was sure that honourable gentlemen would bear him out when he said that there was no part of our constitutional system of which we ought to be so thoroughly ashamed, and which intelligent foreigners, whether from the Continent or from the other side of the Atlantic, were so apt to put their finger upon, as the continued existence of constituencies which, as they all knew right well, could be bought and sold in the market."[1]

Mr. Vivian, member for Glamorganshire, who was Chairman of the Reigate and Galway Election Committees, said, May 29 of last session,[2] "that he believed it was generally admitted that probably at no previous time had bribery existed to a larger extent than it had during the late election." And on the same night Lord Derby said in the

[1] Hansard, May 1, 1866. [2] 1866.

House of Lords, that he agreed with Lord Grey in thinking that "so far from diminishing, the evil was on the increase, and had perhaps been practised more generally at the last than at any other previous election."

Now what has been done during the last four-and-twenty years for abating the evil always so fully recognized? The efforts made for this purpose when, after general elections, each renewal of public scandal has produced a passing fever-fit, have all been signal failures: and the failure of all these efforts should now teach wisdom.

First, there was Lord John Russell's measure of 1842, passed in the excitement caused by Mr. Roebuck's exposure of the "compromises" of that year, and specially designed to provide means of investigation of bribery in boroughs, if petitions in the interest of candidates were not presented, or were, after presentation, withdrawn. It contained two principal provisions with this design: 1. If a petition charging bribery were withdrawn, after nomination of an Election Committee, or if any charges of bribery contained in a petition, or asserted in recrimination, were not proceeded with before a Committee, the Committee was empowered to inquire into the causes of abandonment, and to report to the House recommending further inquiry; and if such recommendation were made, the Speaker was to nominate an agent to prosecute the investigation, and the Committee was to reassemble within a fortnight to inquire and report, having all the powers of an Election Committee, but such further inquiry was not in any way to affect the seats. 2. A petition alleging

general or extensive bribery, but not to affect the seats, presented, with certain conditions of time, after the period prescribed for presentation of election petitions, or a similar petition presented within twenty-one days after the withdrawal of an election petition which had charged bribery, was to be treated and proceeded with as an ordinary election petition, the costs of the petitioners to be borne by the public if the Committee should report that there was reasonable and probable ground for the allegations; the petitioners, however, being required to enter into recognizances for the sum of 500*l.* for the event of their being made liable for costs. The results of this piece of legislation have been that, during the four-and-twenty years which have since elapsed, there have been only two cases of further inquiry founded on special reports of Election Committees (the cases of Plymouth and Ryde in 1853), neither of which two inquiries had any practical consequence, and there has not been one single case of a petition for inquiry into bribery in the absence of election petitions. The Act, therefore, has been useless, and it is not difficult to say why. Committees were empowered, but not enjoined, to investigate the causes of withdrawal or abandonment of bribery charges. The Act may have stood in the way of compromises to withdraw petitions *after* the nomination of an Election Committee; but it could in no way affect compromises to prevent presentation of petitions, or to effect their withdrawal *before* nomination of a Committee; and the number of timely withdrawals of petitions in pairs during the last session was considerable. Still there have

been many cases where an Election Committee might have exercised the power given by the Act; but Committees have not brought themselves to consider it a part of their duty to go beyond what the lawyers of the two sides put before them, and what affects the seat; they are none of them anxious to prolong their labours by an inquiry which the Act leaves at their option; the office thus left to their option is an invidious one, of thankless labour; and the House has never shown any disposition to press Committees to exercise the further powers given to them. As to the petitions for investigation of bribery, empowered by the Act of 1842, inasmuch as they were not to affect the seat, who could be expected to incur the risk of heavy costs, and all the labour and odium of such an enterprise, with nothing to gain, and only to expose the depravity of a constituency for the public good? Who can wonder that not one such petition has ever been presented?

The second measure was that of 1852, for appointment of Commissions on a joint Address from both Houses stating that a Committee of the House of Commons had reported that corrupt practices had extensively prevailed, or that there was reason to believe that they had extensively prevailed, in a constituency. The Act gave very full and stringent powers to the Commissions that should be so appointed, and authority to give certificates of indemnity to truthful witnesses; and, on the other hand, witnesses were not to be excused from answering questions on account of privilege or self-crimination. In pursuance of this Act, Commissions were issued in 1853 for the boroughs of Barnstaple, Cambridge, Canterbury, Hull,

Maldon, and Tynemouth. A great sensation was created by the evidence which these Commissions extracted, as a great sensation has been lately created by the evidence as to Great Yarmouth, Reigate, Totnes, and Lancaster: but no good has ever followed beyond the temporary sensation. Bills introduced into Parliament in 1854 to disfranchise the electors whom the Commissions had reported guilty of bribery were resisted on the ground that the Commissioners' certificates of indemnity, which, by the words of the Act, were to free witnesses telling the truth from "all penal actions, forfeitures, punishments, disabilities, and incapacities, and all criminal prosecutions," ought to protect them against disfranchisement, and all the parties reported guilty had confessed and received certificates. Some similar Commissions were issued later; for Galway in 1857, Gloucester and Wakefield in 1859, and Berwick in 1860; but the same difficulty always stood in the way of disfranchisement of the guilty. It would seem that there was no mode of bringing home guilt to individuals to the satisfaction of Commissions except by their own confessions. The guilty parties, then, having made their confessions, got off scot-free, and the Legislature was not able even to disfranchise or purify the constituencies. All the expense of these Commissions, which was considerable, went for nothing. At last an Act passed in 1863 (26 and 27 Vict., c. 29) repealed the clauses of the Act of 1852 concerning the certificates of indemnity, and provided anew that certificates given by Commissioners should be a protection only against criminal proceedings or actions for penalties. The Legislature, therefore, need no longer be

restrained by such certificates from passing Acts of disfranchisement. The Chairmen of the Bridgewater and Galway Committees of last session seem, then, to have acted under an erroneous impression when they desisted from moving Addresses for Commissions to inquire into the corruption of those boroughs, because no good could result. There would have been two more cases to strengthen the impression produced by the revelations of Great Yarmouth, Reigate, Totnes, and Lancaster; and the words "*all* penal actions, *forfeitures, punishments, disabilities, and incapacities,* and all criminal prosecutions," having been repealed and replaced by the words "information, indictment, or action," there seems no question but that extensive disfranchisement might follow.

It is to be observed, however, that no good at all can be effected under this Act,—that there can be no Commission,—unless there has been a petition, and it has been persevered with, and an Election Committee has reported reason to believe that there had been extensive corruption; many difficulties, therefore, have to be got over, much risk run, and much money spent, before the Commission can be arrived at: in only a few cases can the Act take effect, and its operation is, at best, that of a lottery. Its terrors, which are at most exposure, little cared for by most bribers and bribed, and possible disfranchisement, are greatly diminished by the many chances of escape from its operation. It is clear from the published proceedings of the late Commissions that certificates of indemnity against legal proceedings have been almost universally given.

The two measures of 1842 and 1852, which have been described, were confined to providing means for the discovery of corruption. The objects of a third principal measure, the "Corrupt Practices Prevention Act" of 1854, were to prevent and punish. The chief provisions of this Act were:—1. To create a public officer, called the Election Auditor, to whom all accounts were to be sent in, and through whom all expenses were to be paid by candidates or their agents, and who was to publish in due time the candidates' expenses; candidates being required also to notify to the election auditor their agents for election expenses; such agents to make solemn declarations of "not knowingly making, authorizing, or sanctioning" payments except through the Election Auditor; the Election Auditor also having to make a solemn declaration that he would perform his duties truly and faithfully; and various penalties being assigned to candidates for infraction of these regulations, while any wilful act of the Election Auditor contrary to his solemn declaration was made a misdemeanour. 2. To define anew and with precision, and more comprehensively, the offences of bribery, treating, and undue influence; making all acts of bribery and undue influence, as defined in the Act, misdemeanours, and also prescribing penalties to be recovered by action; making acts of treating similarly liable to penalties; and further providing that any voter who had been convicted of bribery or undue influence, or against whom judgment had been obtained for any penalty for bribery, treating, or undue influence, should be disqualified to remain on the register of voters, and that the Revising Barrister should

expunge his name from the list, or disallow his claim, as the case might be, and insert his name in a separate list, to be called "The list of persons disqualified for bribery, treating, or undue influence," and to be appended to the register of voters. Let the result of the provisions under the second head be first stated. There is not one single instance of a Revising Barrister's being called upon, since this Act passed in 1854, to expunge or refuse to insert the name of a voter branded by a court of law as guilty of bribery, treating, or undue influence; not one single instance of such a list of disqualified voters appended to a register. There have been no cases of prosecutions or actions, or if any, next to none; the difficulties of proof, the chances of being mulcted in costs, the necessary expenses, the necessity of recognizances, the want of any strong interest, and the invidiousness of the office, have repelled prosecutors. So far, then, as regards these provisions for punishment, the Act has been a failure. And the failure of the provisions for preventing illicit expenditure through Election Auditors and Election Agents has been as complete. The intended checks were easily, extensively, and grossly evaded. The authorized Election Agents often knew of and assisted to manage these evasions. "Cooked" accounts were sent in to the Election Auditor, who accepted them without inquiry, sometimes, it is even said, took part in the deceit. Other agents than those notified to the Election Auditor made the illegal expenditure for corruption. Much astonishing evidence was given on this point before the Committee of the House of Commons which inquired in 1860, with Mr.

Bouverie as Chairman, into the operations of the Corrupt Practices Prevention Act.

In consequence of this evidence, and much more to the same effect, the Election Auditor was dispensed with by the Act of 1863 (2 Vict. c. 29), the second Act framed to amend the Act of 1854. But this amendment has not mended the matter. Agents are still to be nominated by candidates, and the Returning Officer, who under the Act of 1854 appointed the Election Auditor, has now simply taken the place of the Auditor, without any new powers. The Election Agents now send in the accounts to the Returning Officer, who publishes them. The agents can and do continue their evasions and deceits as before, and, wherever there is corruption, the published returns are as illusory as ever. Violation of the provisions of the new Act by agents or candidates has been made a misdemeanour; but increased severity of threatened punishment is not increased efficacy, and when lesser penalties never come into operation, it is folly to try increased severity. The Commissions which have lately sat have established in each case the falsity of the returns of expenditure published by the Returning Officers. The House of Commons goes through the form, after every general election, of printing, at some expense to the public, these returns of election expenses without any inquiry into their truthfulness. Much evidence was given by witnesses worthy of attention and respect before the Corrupt Practices Prevention Committee of 1860, as to the desirability of improving the Election Auditor's office, securing a better class of officers, and giving them some powers of control over

accounts and for purity of election. If the Act of 1863 had done something of that sort, it would have done some good. As it is, all the evidence given to the Committee of 1860, altered only by omission of the words "Election Auditor," is applicable to the present state of things, and the machinery of Election Agents and published accounts continues in corrupt constituencies to be not merely an useless, but a really mischievous farce; for it really serves there as a machinery of screens and of aids to deception: and the appointed Election Agent acts like a lightning-conductor, but for mischief instead of good, by drawing off observation and responsibility from others and helping censure and the dangers of the law to pass away innocuously for corruption.

This history of the legislation of the last quarter of a century against electoral corruption is, then, indeed a "beggarly account of empty boxes." It is clear that the widely prevailing electoral corruption has had, and has, little or nothing to fear from the checks and pains and penalties of the Corrupt Practices Prevention Acts; that there is no chance at all of exposure of corruption except through Election Committees; and that the only real preventive force is the fear of a petition which affects the seat. The fear of being unseated by such a petition tends to prevent bribery; the desire to wrest a seat from the member returned may lead to exposure of bribery through a petition, which may possibly end in a Commission of Inquiry. The only available motive at present for action against bribery is the desire of a defeated candidate, or his friends, to gain a seat, or at least oust the sitting

member. To this motive of self-interest in individuals the Legislature practically trusts: and how great are the difficulties and obstructions placed in the way of petitioners! The enormous expense of election petitions is matter of notoriety. Then, besides expense, there is great discouragement arising from increased difficulties as to evidence through delay and distance, from uncertainties of election law and conflicting decisions of Committees, and from distrust of the tribunal. These combined causes of discouragement deter many from presenting petitions, and many others from prosecuting them when presented; and the hope of escaping a petition, which is beset with so much difficulty, counteracts the deterring effect of this single remedy in practice.

A declaratory Act might and should have been passed long ago, settling questions which are always in dispute, and on which Election Committees have made conflicting decisions. Lord Derby, as long ago as 1837, when he was Lord Stanley and in the House of Commons, forcibly directed attention to this matter, and suggested the appointment of a Committee to examine conflicting decisions and prepare a declaratory Act.[1] In 1849 Sir Roundell Palmer strongly urged a similar recommendation; he said, in Committee on Sir J. Pakington's Bill for preventing Bribery of 1849, that "while they were every session endeavouring by a sort of rambling legislation to prevent bribery and corruption, they were wholly neglecting one important course of proceeding, that of settling by law those points in regard to bribery and treating which were

[1] Hansard, November 21, 1837.

constantly coming before them."[1] The questions in doubt are not very numerous. One of these questions,—what is an "express decision" of a Revising Barrister which an Election Committee may review under the authority of the 98th section of the 6 Vict., c. 18,—would best be got rid of by repealing the provision, giving the Revising Barrister at the same time proper powers for enforcing attendance of witnesses and production of documents, and making the register, as settled by him, final, except for the appeal on points of law, as now provided, to the Court of Common Pleas, and except as regards disabilities by statute which may arise after the revision.

Of the fitness of the tribunal, much improved as it has been by the series of Acts passed from 1839 to 1848, some judgment may be formed by one only of many samples of evidence, given to the Committee of 1860, concerning Election Committees as now constituted. The evidence relates to two points, capacity and impartiality.

Mr. Serjeant Kinglake, a member of the House of Commons, said, when pressed by Mr. Roebuck, "I can only say this, that I have often been very bold before Committees;" and, in answer to Sir George Grey, "I know, when I used to practise before Committees, we used to look with great anxiety to who was to be Chairman."

It is admitted on all hands that there has been improvement of late years in the constitution and conduct of Election Committees, and a careful observation of the Committees which sat in the last session discovered very

[1] Hansard, June 6, 1849.

little ground for suspicion of political partiality in the Chairmen. But there is a flaw in the metal; and the very provision made to check partiality, of selecting two members from each side of the House and adding a picked man for Chairman, proves the danger of political bias in members of the House when judges of elections. Sitting on Election Committees is an irksome part of a member of Parliament's duties; its irksomeness should be much increased by the knowledge that the want of legal attainments and practice increases costs, that the decisions of the tribunal do not command confidence, and that, under the present system, corruption spreads instead of being checked. No valid objection can be stated against giving the trial of elections to lawyers appointed, like Revising Barristers, by the Judges, or appointed by the House of Commons. That the House should retain its jurisdiction over elections is a phrase, and not an argument; sufficient skill and fit arrangements to ensure justice and to baffle corruption are what is needed for the efficiency and purity of our representative system; our Judges can be entirely trusted; lawyers might be selected for the adjudication of elections of rather higher standing than the generality of Revising Barristers; but there can be nothing more satisfactory than the impartiality and skill with which the duties of Revising Barristers have been almost universally performed. If the House of Commons really desires to make effectual war against corruption, it will not allow a feeling or prejudice—indeed, it may be said, a misconception—about its own jurisdiction to stand in the way of providing the best possible tribunal and procedure for election inquiries. Re-

vising Barristers, appointed not by the House but by the Judges, determine the electors' lists; and Election Committees, though composed exclusively of members of the House, are empowered and controlled by statute. Can there be a more absolute subjection of the House of Commons to law than that furnished by the compulsory clauses of the Election Petitions Act for service of members on Committees? Can there be anything more opposed to the ideas of autonomy and privilege?

It is not only necessary to reduce the costliness of trials of elections as conducted under the present system, but also to provide a means of inquiry not dependent on private action. A great deal of censure has been lavished on compromises and withdrawals of petitions; but so long as election petitions are prosecuted by individuals at their own expense, who is entitled to compel them to proceed one moment longer than they choose? Protection to sitting members against frivolous and vexatious petitions was strongly urged by several witnesses before the Committee of 1860. But the expense of election petitions is generally a strong protection against their abuse; and it is much more important to facilitate inquiries by lightening the burden on petitioners. Vexatious petitions are now presented, in hope either of effecting the withdrawal by exchange of some other petition of the opposite political party, or of frightening the sitting member into retirement to avoid expense; and the minor abuse is, indeed, a creation of the expensiveness to individuals of the present system,—an offshoot of the greater evil.

Agency of the candidate as to corrupt practices is one

of the questions on which varying decisions of Election Committees have been a chief subject of complaint. Much of the variety on this point is necessarily to be attributed to the different circumstances of different cases; but the general want of confidence in the tribunal has caused variety of decision to be almost exclusively regarded as matter of blame. There has latterly been a tendency to uniformity of decision which is favourable to corrupt expenditure, from two causes. The first cause is the Act of 1851, amending the Law of Evidence, by which candidates can be examined; and when they come before Committees and declare on oath ignorance of corrupt practices which may have been proved to have been committed by their friends, Committees find it difficult to make them responsible. The second cause is to be found in the operation of the provision of the Corrupt Practices Acts for appointing agents; the appointment of an ostensible agent serving to disconnect the candidate from other friends, who illegally operate for him. The effect of this requirement to appoint agents may be best stated in the words of a Parliamentary counsel, of great experience and reputation, Mr. John Clerk, who said before the Committee of 1860:—

"Heretofore, when corrupt practices had occurred at an election, the persons who were going to prove the existence of these corrupt practices sought out all those who seemed to have been engaged in the election, and to have taken any part in it whatever, and they would find that one person took part with regard to agency at the election and another person another part. Now, from the circum-

stance of one person being appointed as the agent for election expenses, he manages the legal part of the expenditure, and keeps clear of all those persons of a suspicious character in the borough; and therefore, when there has been a great deal of corruption going on, he can come forward, as he often does, and say, 'All these corrupt practices may have taken place; I never sanctioned them: the candidate never sanctioned them.' And so it has happened during 1857, and remarkably so since the last General Election, that a great deal of corruption has been proved at many places, and hardly a member has been unseated on account of the corrupt practices which prevailed, because the agency has not been proved."

Mr. Clerk states, then, that this provision of the Corrupt Practices Prevention Act has "tended to prevent the detection of agency." The later tendency to uniformity of decision as to agency has been thus a tendency to increase facilities for corrupt practices. That the difficulty of proving agency to the satisfaction of Committees has not been diminished by late enactments is illustrated by the Great Yarmouth and Totnes Election Committees of last session. Both these Committees showed their determination against corruption by reporting a general prevalence of corrupt practices; hence the Commissions, whose revelations are before the world. Yet the Great Yarmouth Committee did not feel themselves justified in unseating the two members, and the Totnes Committee unseated only one of two.

It has been already mentioned that there have been exceedingly few prosecutions for bribery under the provisions

of the Corrupt Practices Prevention Act, and it has been explained why private individuals do not prosecute. But where Election Committees have found persons guilty of bribery, prosecutions might have been instituted by the Attorney-General. Mr. Dew gave the following evidence before the Committee of 1860:—

"In the Parliament which was elected in 1847, and which sat up to 1852, sixty-eight voters were reported by Election Committees as having been bribed. In the next Parliament, which was elected in 1852, and which sat up to 1857, 101 persons were reported as having been bribed. In the Parliament elected in 1857, fifty-five persons were reported as having been bribed; and in this present Parliament, elected in 1859, ninety-one persons have been reported to the House as having been bribed.

"In how many of these cases were the parties recommended by Election Committees to be prosecuted?—In not one in the whole of these cases. I believe that the only instance of any prosecution having been recommended by a Committee, with reference to bribery, was in the case of Beverley, in the present Parliament, when the House ordered a prosecution in the case of two bribers."

It has certainly been competent for Election Committees, since 1848, to make reports recommending prosecution by the Attorney-General, or a reference of the evidence to him for consideration, with a view to prosecutions, under the 87th clause of the 11 and 12 Vict., c. 98. But they have not done so; the clause is permissive, and not compulsory, and does not specify subjects of report;

Committees follow custom, and are not eager to go beyond the questions which are put before them affecting the seats. This may be viewed as a proof that Election Committees, as constituted, are not very sharp instruments against corruption. It was provided by the Act of 1863 (26 and 27 Vict., c. 29, s. 9) that the evidence should be laid before the Attorney-General, with a view to a prosecution, in all cases where Election Committees report persons by name as having been proved guilty of bribery and treating, and it does not appear that they have been furnished with certificates of indemnity. Then the provision assumed a compulsory character; yet no prosecutions appear to have been instituted after the reports of the Election Committees of last session. Why is this? It would seem from some observations of the late Attorney-General (Sir Roundell Palmer) on Mr. C. Buxton's motion of May 28, that he waited for a special recommendation, and reference of the evidence from the House.[1] If this is so, the fault is now with the House. It may, perhaps, be considered that the Chairman of the Election Committee

[1] Mr. C. Buxton moved, May 28, 1866, a resolution "That in every case where any voter is reported by any Election Committee as having received a bribe for voting or abstaining from voting, the Attorney-General shall be required to examine the evidence in such case, and to prosecute the person who has offered or given the bribe, should the evidence, in his opinion, be sufficient to render a conviction probable." This resolution would seem to have been unnecessary, after the provision of the Act of 1863. Mr. Buxton moved his resolution as an amendment on another moved by Mr. Hussey Vivian, that persons reported guilty of bribery by a Commission appointed under the Act of 1852 should be deprived of the franchise, and disqualified to sit in Parliament for life. Mr. Vivian's object would require the passing of an Act; and it might be well to distinguish between briber and bribed.

ought to follow up its report by a motion for referring the evidence to the Attorney-General, as the Chairman is always looked to for moving an Address for a Commission, after a report of a Committee of the prevalence of corrupt practices.

After the last General Election, petitions charging corrupt practices were presented in the cases of forty-four constituencies,—no more. Petitions were prosecuted and tried in only twenty-two of the forty-four. Only fifteen members were unseated: only four Commissions of Inquiry have been issued; there have been no prosecutions for bribery by order of the House. This is what there is to show after a General Election, universally believed, and loudly proclaimed by men of authority in Parliament, to have been marked by grosser and more widely-spread corruption than any that has gone before.

A return made to the House of Commons in the last Session (No. 77, Election Petitions), shows that from 1832 to the dissolution of 1865 petitions charging bribery had been presented in the cases of eighty-eight constituencies: nineteen of these had been subject twice to bribery petitions; eighteen three times; five, viz. Cambridge, Canterbury, Carlow County, Dublin City, and Maidstone, four times; and the borough of Ipswich, six times. But no one supposes that even eighty-eight is the whole number of constituencies tainted with corruption. It is remarkable that of the six constituencies which have had the honour of being at least four times accused, there were, this time, petitions charging bribery in only two cases, Canterbury and Maidstone; and only one of the two went to trial, that

of Maidstone, in which the petitioners failed. Petitions were either not presented or not prosecuted for a number of places, where it is matter of notoriety that the grossest corruption prevailed.

Notwithstanding the great difficulties in the way both of election petitions and of the petitions permitted by the Act of 1842, the House of Commons discourages to the utmost attempts to procure investigation into corruption at Elections by Select Committees, which would entail no expense on petitioners. Between the passing of the Reform Act, and the adoption in 1839 of Sir Robert Peel's improved measure for the trial of controverted elections, there were several investigations into corruption of particular constituencies by Select Committees. There was such an investigation for Stafford in 1833, and the Select Committee voided the election; and a bill to disfranchise the borough was founded on its report, and passed the House of Commons, but was rejected in the Lords. There were similar investigations in 1835 for York and Great Yarmouth; and the report of the Select Committee in the case of Great Yarmouth led to the disfranchisement of the freemen of the borough. Why should not the House now encourage individuals who desire to purify their constituencies, and who are deterred by considerations of expense from election petitions and the petitions of the Act of 1842, to come forward as ordinary petitioners for inquiry into their statements by Select Committees? Some words of Lord Palmerston, who always expressed himself with becoming warmth on the subject of electoral corruption, may here be aptly quoted:

"This question of bribery is one of such importance to the House and the country,—the abuse strikes so vitally at the root of everything on which the influence and character and respectability and usefulness of the House depend,—that I think the House ought at all times, if it errs at all, to err on the side of extending opportunities of inquiry, rather than to take that view of the case which might sanction the supposition that bribery can be practised with impunity."[1]

It is not to be denied that certain improvements have been effected during the last five-and-twenty years in the law as to corrupt practices, and in the procedure of Election Committees. The provision of Lord John Russell's Act of 1841, for allowing general inquiry into acts of bribery before proof of agency; the similar provision as regards treating in the Act of 1863; the power given by the last Act to Committees to compel witnesses to answer all questions with the gift of a limited certificate of indemnity; and above all the definitions of corrupt practices and the provisions against them of the Act of 1854, which leave little to be desired, if there were a proper machinery for setting in motion and applying the provisions,—are so much gain; but, unfortunately, of very little avail while the present system of election petitions and election inquiries continues.

It is well to know the disease and all its symptoms and the history of past failures to cure, before proposing new remedies. No one can doubt that, if any serious abatement of electoral corruption is to be hoped for, Parliament

[1] Hansard, March 15, 1848.

must provide the means of severe control over the proceedings of candidates and their friends during an election, of surer, quicker, cheaper, more skilful, and more searching inquiry afterwards, and of much nearer approach to certainty of punishment of evil practices.

The following suggestions are now made for the better prevention and discovery of corruption at elections and determination of right to be elected. Minor matters of detail, easy to be settled, are omitted, and the scheme is of course susceptible of modifications, and may be improved by criticism.

1. Appointment of a duly qualified officer, a barrister of the standing now required for a Revising Barrister or a Commissioner under the Act of 1852, either to preside at the election in lieu of the present Returning Officer, or to aid the Returning Officer in his duties, such as they now are, as assessor and legal adviser, and also to exercise a supervision over the election and all proceedings of candidates and members with reference to it, and to hold, after the polling and before the return, a court of scrutiny and general inquiry. It would be better to supersede the present Returning Officers, and give the old name to the new functionary. The Returning Officers of the present system have no particular qualification; they are almost always electors and generally partisans, while their legal advisers are local solicitors, often very keen partisans, and sometimes even agents for candidates. The barristers who are to aid them or to take their places, to be appointed, as Revising Barristers now are, annually by the Judges: Revising Barristers, Recorders of Boroughs, and County Court Judges

to be eligible; and if these functionaries could always be appointed, expense might be saved. The payment to be a small annual salary, and so much a day during an election, from the issuing of the writ to the making of the return. An advantage of an annual appointment will be, that there will always be some one whose duty it is to take notice of proceedings of candidates before the election fairly begins, and of members and defeated candidates after the decision of the election. As with Revising Barristers, it will be the practice of Judges to reappoint so long as there is no reason against. The annual salary of the Returning Officers to be paid by the public; the expenses during election to be paid from the borough or county fund.

2. The provision of 26 and 27 Vict., c. 29, s. 2, requiring candidates to appoint agents and notify them to the Returning Officer, to be repealed, and the candidates to be directly accountable. Candidates not to be permitted to retain more than one solicitor for advice. Conveyance of voters to the poll in hired carriages to be prohibited, except on medical certificate and with the sanction of the Returning Officer, or his Deputy in the polling district in counties and large boroughs. Votes of electors carried to the poll, and of parties hiring carriages in violation of law, to be void, and the parties hiring to be subject also to fines. The old disability to vote of paid agents and servants of candidates for the election to be revived. Paid canvassers to be prohibited. Candidates to be required to notify to the Returning Officer the names of chairman, members, and officers of Committees, of solicitor, clerks, messengers, &c., of printers, stationers, and all tradesmen

employed, also of all places engaged for Committee rooms or meetings for the purpose of the election. All accounts, except those for personal expenses, to be sent in to the Returning Officer, who will be empowered to tax them, and will be required to sanction no solicitor's charges except those strictly professional of the one solicitor named. All payments to be made by the Returning Officer, who will call on the candidates to pay to him what is requisite. He will have the power of calling for hotel-bills and accounts of personal expenses, and examining hotel-keepers, &c. Candidates and members to be also required to notify to the Returning Officer all subscriptions to local institutions and charities, at the time when made. The candidate to make a solemn declaration that he has not made, and will not make, any payment whatever for the purposes of the election or with reference thereto, except for strictly personal expenses, but to the Returning Officer. The failure to comply with any of these regulations to be visited with fines. The Returning Officer to have power to enter all Committee rooms, and rooms engaged for the election, and require information as to composition of Committees and persons employed, and all matters relating to the conduct of the election; also to have power to limit the number of persons employed. No Committees or meetings to be held at public-houses.

3. The poll in boroughs to be taken always in wards and subdivisions of wards; number of polling places in counties to be increased. Expenses of polling places, and of all persons employed under the Returning Officer, as well as the expenses of hustings, to be charged on the

borough or county fund. Measures to be taken to prevent the state of the poll from being known and published until the close of the polling; but this need not prevent employment by candidates, if they desire it, of check-clerks, who must not send out lists; nor must personation-agents.

4. At the close of the polling, the state of the poll to be made known officially, and the Returning Officer to give notice of an early day, not earlier than the fourth or later than the seventh, for holding an open court of scrutiny and inquiry. The poll books to remain in his custody, and to be open to inspection of candidates and electors, who may have copies. All bills and accounts of candidates to be sent in to the Returning Officer at latest on the second day after the poll.

5. The powers of Revising Barristers, under 6 Vict., c. 18, for enforcing attendance of parties whose votes are in question and witnesses, and for production of papers and documents, at the courts for revision of registers to be made complete; and so much of clause 98 of that Act as gives to Election committees power of revising express decisions of Revising Barristers, to be repealed.

6. The Returning Officer on the day appointed to make a scrutiny of the poll. He will also inquire generally as to corrupt practices at the election, and will have generally the same powers for inquiry as are given to Commissioners under the Act of 1852. Certificates of indemnity not to be given where proof enough is obtained without the confession of a corrupted party; never to be given to the person bribing, treating, or guilty of using undue influence; and never to protect against disfranchisement. The

Returning Officer will also hear and decide any question as to the disqualification of a candidate.

Candidates may appear before the Returning Officer holding this Court, in person, or by a counsel or solicitor; but not more than one counsel to be employed on each side. The Returning Officer not to be restricted to the cases brought forward by the candidates. After this inquiry, the Returning Officer will make a return of the state of the poll, and he will also make a detailed report of all votes rejected or admitted by him in the scrutiny, with the reasons for his decisions, and of the general evidence taken as to corrupt practices, and whether the persons who are elected according to the figures of the poll are or are not duly elected, and whether any of them were guilty of bribery, treating, or undue influence. He may also specially report on any matter relating to the election. His report, with shorthand writer's notes of evidence, to be sent to the Clerk of the House of Commons, on occasion of an election for a new Parliament, otherwise to the Speaker. Report to be made public at the time.

7. Where the Returning Officer reports that a candidate elected on the poll is not duly elected, such person cannot take his seat, unless the decision of the Returning Officer is reversed on appeal. Appeal to be given to candidate or elector against decisions of Returning Officer, to be sent, in case of a new Parliament, to the Clerk of the House of Commons, or otherwise to the Speaker, within a fortnight after the return, such appeal to specify the particular decision or decisions objected to, and the grounds of objection. Complaint may be made that the Returning Officer has not

sufficiently investigated corrupt practices, or any other complaint may be made of his conduct. Copy of appeal to be communicated to the Returning Officer, and by him published. If no appeal at the expiry of the fortnight, where Returning Officer reports that a party was not duly elected, new election to take place by proclamation of Returning Officer under the old writ within seven days.

8. At the beginning of each session the Speaker to appoint a Committee of Elections of five members; and he will appoint to hold his office during good behaviour a legal assessor with a salary of not less than 1,500*l.* a year. All reports of Returning Officers and appeals to go before this Committee. Where there is no appeal, the Returning Officer's decision takes effect. An appeal once made not to be withdrawn before reference to the Committee of Elections, which will inquire into its allegations and visit the appellant with costs at its discretion. Appellant to be confined to the specific allegations of his appeal; and Committee to have power to award costs against appellant in respect of abandoned allegations, or allegations made without probable cause. The Committee, with aid of Assessor, to hear and decide the appeal. Each party may be represented by solicitor or counsel, but not more than one counsel on each side; Returning Officer to attend and give explanations. Where the presence of witnesses is judged necessary by the Committee, the case to be adjourned, and all the witnesses needed summoned. Committee to have discretion as to charging cost of witnesses, or portion of same, to the public, or to the borough or county fund, or to any of the parties. Committee also to

hear and decide complaints against Returning Officer; to have power to order a new local inquiry for specific purpose by another barrister. The decision of the Committee to be final as regards the seats. It may make special reports and recommendations to the House as to disfranchisement of constituency or of a part of it.

9. The Returning Officer will, at the inquiry held after the polling, bind over all witnesses of bribery, treating, and undue influence, to appear before the Courts, and will indict guilty parties, and, at his discretion, bring actions for penalties, under the provisions of the law. All penalties recovered to go to the credit of the borough or county fund. All fines imposed by the Returning Officer under his powers to have same destination.

10. Returning Officer will have power to inquire at any time as to any payments in a constituency made by or for a member, or candidate, relating to a past election, whether made before and not discovered till after the decision of the election, or made after such decision: he will decide on their bearing on the election and report as before; member liable to be unseated at any time on discovery of corrupt practices with reference to his election.

11. Member, candidate, or other person, found guilty of bribery, treating, or undue influence, to be disabled for life from sitting in Parliament.

The above suggestions are offered in the hope that they may furnish, at least, a foundation for an effectual measure. If it be thought that they involve great innovation, it must be remembered that many efforts to mitigate this great evil have failed, that there has been shown a wonder-

ful power of eluding well-meant legislation, that our electoral corruption has been long a great national scandal, and that this scandal is even increasing.

"Diseases, desperate grown,
Must be relieved by desperate appliance."

The certainty of a searching inquiry, immediately after an election, and on the spot, by a competent and impartial judge, armed with the full powers now given to the rarely-appointed Commissioners, will be an effectual alarm. The number of appeals will probably not be great; and therefore it is proposed to nominate for the Court of Appeal a Committee of only five members, and only one legal assessor, who should be a lawyer of standing and authority. The Speaker will select for the Committee of Appeal members of the same standing and character as those now generally selected for the General Committee of Elections, and for the Chairman's panel. Where there are appeals, definite issues will be raised before this Committee, which will generally be capable of being shortly disposed of. The appointment of legal assessors in aid of the present Election Committees has been often suggested. Mr. Charles Buller, in his Controverted Elections Bill of 1837, proposed the appointment of three such assessors; and Sir Robert Peel then favoured the plan.[1] Where counties and boroughs have to pay a portion of the expenses of an election, the constituencies will become keenly interested in shortening the inevitable inquiry, for which they are taxed at so much a day, and in preventing the recurrence of an election through the voiding effect of corrupt practices.

[1] Hansard, April 2, 1838.

It would be well to require of every member on taking his seat a solemn declaration, such as was proposed by Sir John Pakington in his Bill of 1849, that he is entirely innocent of corrupt practices.

Allusion was made at the commencement of this pamphlet to the use of Government patronage for corruption. Mr. Robert Harris, the Tory briber of Totnes, mentioned to the Commissioners that the place of postmaster at Totnes became vacant shortly before the late change of Government, and that it was given to a person whom he described as the Whig briber; coolly adding that, if the vacancy had occurred a few weeks later, he himself would have received the appointment. How much does this little bit of evidence tell as to the working of the present system! Why should not all the small appointments of the public service, which are now distributed by nominations of different sorts among political supporters, be given through competition to which there shall be access without favour, or by promotion as reward of good service? Lord Grey long ago, and before the beginning of the Civil Service Examinations, made a very excellent suggestion; viz. that the small places in the gift of the Treasury, General Post Office, and other public departments, which now almost all go to fill the great sewer of party patronage, should be given as prizes in local examinations.[1] Such a place as postmaster might, in a good system, be given to a Post-Office clerk who has earned promotion by service. Sir Stafford Northcote, who was associated with Sir Charles Trevelyan in the re-organization of the Civil Service by examinations, is a

[1] Hansard, July 13, 1844.

member of the present Cabinet. The cravings of party and of private patronage have greatly interfered with the realization of the reforming ideas of the two originators of the system. The application of those ideas to all Government appointments, which can serve for gratification of electors, would be a very valuable auxiliary measure against electoral corruption; and it would be further very valuable as an example from the Government, and as a proof of its earnestness and determination.

It was contended in the last Session that it was neither customary nor suitable to introduce provisions for purity of election into a Bill of Parliamentary Reform. At first sight, certainly, no provisions would seem more suitable for such a measure, and there is authority for the conjunction. It is known that the Committee of the Cabinet, consisting of Lord Durham, Lord Duncannon, Sir James Graham, and Lord John Russell, to which Lord Grey in 1830 referred the preparation of a Reform Bill, suggested the insertion of vote by ballot in that measure; and it has never been supposed that the Cabinet declined this suggestion, because they thought that the prevention of bribery, if the Ballot could prevent it, was unconnected with amendment of the representation. It may be here mentioned incidentally that Lord Durham and Lord Duncannon were advocates of the Ballot, which had another distinguished advocate in Lord Althorp. Lord Russell, in an explanation which he has lately published of the principles which guided him when he helped to frame the Reform Bill of 1831, has stated that he endeavoured to obtain an electoral body which, though bribery could not

be entirely excluded, should not, as a mass, be tainted with corruption.[1] It is surely proper and important, in a measure for diffusing the electoral franchise and distributing seats, to endeavour to obtain, as far as possible, pure voters and healthy constituencies.

The connexion of legislation against corruption with the objects of last year's Reform Bill is indeed as close as the connexion between the two subjects of extension of franchise and distribution of seats. The purification of constituencies will in one way, as an equitable adjustment of seats will in another, qualify and correct the operation of an uniform suffrage. The distribution of seats and the size of constituencies will, in turn, have more or less influence on purity of election. As a general rule, the larger the constituency the greater the difficulty of achieving an election by bribery; but where the opposite parties in a large constituency are nearly equal, it may be as easy to turn the scale by bribery as to buy a majority in a small borough. It has not yet been proposed in any Reform Bill to take even the moderate number of a thousand for the minimum of a constituency; and there is a very fair argument for the preservation of some small boroughs, that they may make their useful quota of contribution to that general representation of classes, interests, professions, pursuits, and capabilities, which would make a House of Commons the whole nation's mirror and epitome. When it is known that the four boroughs which have lately been exposed by Commissions are only four, which had the bad

[1] New edition of Lord Russell's "Essay on the English Government and Constitution," 1865.

luck to be caught, out of perhaps at least a hundred which are bad, would it not be well to have some general examination of constituencies, in order to get rid of existing causes and elements of impurity, and start fair with a newly-organized scheme of representation? A proposal made in the last Session by Lord Grey for a Commission of general inquiry did not receive sufficient attention, and was certainly not opposed by any adequate argument. Whenever Commissions are now appointed, the past elections for a long time back are searchingly investigated; the Commissioners admit no limitation of time; and why should not the antecedents of all other corrupt constituencies be investigated, with a view to total or partial disfranchisement, as each case may require, in a readjustment of the representation? It was proposed in the last year's Bill to group together in twos and threes a number of small boroughs. Was it not important to know the character of each of these boroughs, which it was proposed to join, for better or for worse, with others? How many of them are like Totnes? How many of them are pure boroughs, whose purity would be overwhelmed by the corruption of proposed mates? In how many of the proposed groups might it have become easier for the agents of corruption to carry an election by a nicely calculated balance of votes in one borough of the group? Take Totnes, which has now been thoroughly exposed, as an example: must not evil, rather than good, come from associating it with other boroughs? There is much to be said generally against the grouping of distinct boroughs. It is obvious that it must, *pro tanto*, increase the necessary expenses of

an election; and it will often afford facilities to corrupt operators, balancing one portion of the group against another. The concentration of a constituency is favourable to public spirit; and it is observed now in our largest constituencies that there is much indifference to the exercise of the franchise. When the example of the Scotch groups of boroughs has been cited, the expensiveness of their elections has probably not been inquired into or thought of.

Much is it to be hoped that provisions against Electoral Corruption will form part of the next Bill for amending the representation, or will accompany or even precede a measure for regulation of the suffrage and of seats. The highest authorities of different political opinions agree in declaring this corruption to be the greatest evil of the present system. It is a very dark blot on our scutcheon, a great national scandal. It makes shame and ridicule for us abroad. It owes its vigour to the apathy of Parliament and of Governments, who "bid be done,"

> "When evil deeds have their permissive pass
> And not the punishment."

There should at last be an end of an inaction, which is in truth connivance and culpability.

V.

ADDRESS TO THE NATIONAL REFORM UNION, MANCHESTER, ON ELECTION CORRUPTION AND EXPENDITURE, NOVEMBER 16, 1869.

INTRODUCTORY NOTE.

THE following address was delivered at Manchester, in November 1869, after the close of the first session of the present Parliament, elected under "The Representation of the People Act" of 1867; after the close also of the Election petition circuits of that year, during which petitions had been tried by superior Judges in Great Britain and Ireland, and of Commissions of inquiry into corruption, resulting from election petition trials, including those of Bridgwater, Beverley, and Norwich.

Early in the sittings of 1869, Mr. Bruce had announced that the Cabinet regarded the Ballot with favour; and a Committee was appointed, on his motion, to inquire into "the present modes of conducting Parliamentary and Municipal elections, in order to provide further guarantees for their tranquillity, purity, and freedom." A Cabinet Minister, Lord Hartington, presided over the Committee. It took evidence during the whole of the session, and the three Judges who had conducted the English election petition trials were in time, after concluding their circuits, to put the Committee in possession of the results of their valuable experience. The Committee, at the end of the session of 1869, reported all the evidence which they had taken, and drafts of reports and recommendations pro-

posed by the Chairman and by other members, to be read, considered, and discussed in the parliamentary vacation; and they recommended that they should be re-appointed in the next session to consider their report.

The draft report of Lord Hartington, the chairman, contained an unfortunate passage declaring "great difficulty in framing an enactment for the purpose of abolishing the use of paid canvassers," and discountenancing an attempt at prohibition. The report of the Committee, agreed upon next year, contained a similar paragraph, worded as follows:—

"We do not think that it would be possible to prohibit absolutely the employment of paid agents for the purpose of an election, and there would be much difficulty in enforcing the prohibition of the use of paid canvassers. Although the employment of paid agency is sometimes carried to an unreasonable and improper extent, so as in some cases to assume a corrupt character, an election cannot always be conducted without paid agents of some kind."

Only three members of the committee, Mr. C. Villiers, Mr. Dalglish and Mr. Fawcett, voted against this paragraph.

It may be that there must be a paid agent or agents; but it need not be that there should be paid canvassing agents. Canvassing is an overt act easy of proof. The three Judges who gave evidence before the Committee, or any three lawyers in the House of Commons, would have no difficulty in framing an enactment against paid canvassing which could be easily enforced. It would not be necessary to do more than to visit paid canvassing with ordinary penalties; the canvassing of a paid agent should void the member's election.

If paid canvassing is permitted to go on as it does, the Ballot will not have a fair trial. Paid canvassers assigned in sufficient numbers to wards of boroughs, or parts of counties, can do an infinite deal to frustrate the uses of secrecy.

The meeting at which the following address was delivered, was presided over by Mr. George Wilson, of Manchester, who was known thirty years ago as the Chairman of the Anti-Corn Law League. As a member of the House of Commons, I was humbly associated with Mr. Cobden and Mr. Bright in support of Repeal of the Corn Laws, and I was a member of the Anti-Corn Law League. The opening sentence of this address refers to allusions made by Mr. Wilson to my connexion with that League.

ADDRESS, ETC.

I AM much gratified by the Chairman's allusion to cherished memories of former days. I shall endeavour to make this address as practical as possible, and not remain content with mere declamation on the enormity of the evils of electoral corruption, which are notorious and universally admitted. My subject is twofold,—corruption at elections and expenditure at elections. These subjects are distinct, and yet they are much, if not inseparably, connected.

Recent investigations by our Judges have made us acquainted with three boroughs, Bradford, Youghal, and Westminster, in which, in the last general election, the expenditure of a winning candidate was 7,000*l.*, 5,000*l.*, and 9,000*l.* respectively; and though in two of these cases the lavishly spending member was unseated, the Judge was unable, in the case of Westminster, to arrive at a like decision. It is clear that the evil of undue expenditure should be dealt with, as well as what the law defines to be "corrupt practices." The law defines "corrupt practices" to be bribery, treating, and undue influence: and in the cases of the three boroughs which have been named, the

Judges could not, even with such enormous expenditure, find themselves able to report that "corrupt practices" generally prevailed. The three Judges who have conducted the election trials in England during this year have given evidence before the Committee which has sat, under the presidency of Lord Hartington, to inquire into parliamentary and municipal elections. Their evidence is a valuable storehouse of facts and opinions for election reformers. The Judges have strongly recommended an improvement of the law, which shall enable them to unseat members proved to have incurred a lavish, extravagant, or unreasonable expenditure. It would further be well, if the Judges' reports in such cases were always followed by Commissions for full inquiry. In order to meet an objection that it would be difficult to determine precisely what amount of expenditure should be regarded as improper, Mr. Justice Blackburn suggested that any expenditure beyond 5*s.* per head should be treated as unreasonable. Calculations have been made that Mr. Ripley, unseated for Bradford, incurred an acknowledged expenditure of 19*s.* per head, not of the whole constituency but of those only who voted for him; and that Mr. W. H. Smith, who was not unseated, the Member for Westminster, spent at the rate of 15*s.* per head of his own voters. I can say from my own experience that such unreasonable expenditure has not been confined to England and Ireland; and that in a Scotch borough which I contested in the last general election, the borough of Greenock, the gentleman who carried away from me the seat, and who on petition was declared duly elected, returned his expenditure at

nearly 3,000*l.*, thus acknowledging that the votes which were given him cost him all but 20*s.* per head of those who voted for him.

I believe, with deference to the three distinguished Judges who after trial of many petitions have appeared before the Committee, that a very much better remedy would be found in specifying what shall be legal heads of expenditure, and allowing no candidate to expend any money, except for any of the specified purposes; and in ensuring the means of an effective supervision, during the contest, of the expenditure of candidates. Such recommendations are not my own invention, but were made so far back as 1860 to a House of Commons Committee by two barristers, Mr. Vaughan and Mr. Wilford, who had been commissioners for an election inquiry at Gloucester. The House of Commons has long since had good advice on this subject, but it is very slow to follow it. While the Act of 1868 was passing through the House of Commons, Mr. Mill made a strenuous endeavour to induce the Government to consent to a plan for appointing for all elections a public officer, a lawyer, to act as assessor to the returning officer, to watch proceedings during the contest, and hold an inquiry immediately after the election, being invested with powers for rigorous enforcement of the law against corrupt practices. Prevention is better than punishment. The most zealous economist need not be alarmed at the expense of such a plan. The end to be attained is so important, that the necessary outlay would be wisely incurred; and it is not likely to be greater than the cost of the Judges' elections trials of this year, which is estimated

at 12,000*l.* or 13,000*l.* Part of the expenses of these assessors should be borne by the constituencies and charged on the rates.

This leads me to say that I am an advocate of Mr. Fawcett's proposal to charge the public expenses of elections on the borough and county rates. The addition to the rates in consequence can never exceed a mere trifle, a fraction of a farthing: candidates will be relieved from a heavy charge. The whole charge on the rates will be considerably less than the charge on candidates; the ratepayers will see that what they have to pay for is economically done, whereas returning officers have little or no consideration for candidates' pockets. More economical methods of returning officers will help to give an economical tone generally to election contests.

Much expenditure at elections, which the law does not proscribe, yet involves and generates corruption: the money, for instance, spent on agents, printers, clerks, messengers, &c. Expenses for these purposes, all necessary in a degree, should be reduced as much as possible: for lucrative employment or custom furnishes means of gratifying voters, and paid canvassing leads directly to improper influences and corrupt practices. Again, the purchase of refreshments, which do not come within the provisions of the Corrupt Practices Acts, makes an opening for corrupt influence. The conveyance of voters, though made illegal, is still practised, because the Legislature has not enacted that a violation of the law shall disqualify a candidate.

A large expenditure for purposes not illegal is mis-

chievous as furnishing pretexts and excuses to others, and assisting corrupters to cloak corruption. That very experienced and astute gentleman, Mr. Spofforth, the election-manager for the Conservative party, told the Commission that he was not surprised or made uneasy by a demand of 2,000*l.* or 3,000*l.* for a candidate's expenses at Bridgwater, because he took for granted that most of it was to be spent on lawyers and canvassers, which the law permits. It is now known that the largest part of the large sums which were no surprise to Mr. Spofforth were spent in pure bribery. How this sort of expenditure blinds other men's eyes has lately received most powerful illustration in Scotland, in the case of the Lord Justice Clerk Patton, who had been unconsciously led into bribery at Bridgwater, and whose sad suicide should be a strong lesson; for you will probably remember how his legal adviser and agent, Mr. Pitman, an Edinburgh writer of the highest respectability, declared that the large expenses at Bridgwater did not seem to him, who had the care of Mr. Patton's interests, surprising, knowing as he did what large sums were spent in paying Scotch lawyers in Scotch elections; and he instanced the expenses of my opponent at Greenock, the now sitting member, who returned an expenditure of 3,000*l.*, nearly 2,000*l.* of which went to payment of writers and accountants as paid canvassers.

The evil effects of such expenditure are further shown in their natural action on the minds of poor voters, who, seeing the large sums spent for getting into Parliament, conclude that they expect somehow to repay themselves, and naturally think it to be no worse for them to help

themselves in their difficulties and struggles for living by getting something out of the candidate in return for their support. Mr. Mill, in an admirable passage of his work on "Representation," has spoken of "the corrupting effect of the notion inculcated on the voter that the person he votes for should pay a large sum of money for permission to serve the public." He proceeds to say unanswerably: "So long as the candidate himself, and the customs of the world, seem to regard the function of a member of Parliament less as a duty to be discharged than as a personal favour to be solicited, no effort will avail to implant in an ordinary voter the feeling that the election of a member of Parliament is a matter of duty, and that he is not at liberty to bestow the vote on any other consideration than that of personal fitness."

There are two objects to be kept in view: one is to get rid, as quickly as possible, by any means whatever, of those foul practices of corruption which are a disgrace and scandal to the nation; and the other is to take steps for the reduction of expenditure at elections, in order to enlarge the circle of choice for members of Parliament and improve the quality of our representatives. In the first election trial which took place, that of Windsor, where the sitting member was unsuccessfully petitioned against, Mr. Justice Willes, who tried the case, took occasion in admirable language to comment on an expenditure of 27*l.* for champagne by the sitting member at an Odd Fellows' dinner held during the contest, remarking that it was the more objectionable, "because even if a man of wealth could spend 27*l.* in an evening upon drink for

others, it seems like an exclusion of men in moderate circumstances from being candidates, if profuse expenditure of this kind is to be resorted to." The Judge added, "If there were not a distinction between bribery and treating, what must I have said of that?" The same excellent Judge—all whose language, both in his judgments and in his evidence before the Committee on Municipal and Parliamentary elections, breathes the finest public spirit—pointedly said to this Committee that a chief evil of the prevailing expenditure at elections is that "you give a rich dullard the advantage over a poor man of intellect." Yes, this is a cardinal point of parliamentary reform. Wealth conquered wisdom at Westminster. There were many other such instances in the last general election. A number of advanced Liberals, bred in the Universities, were similarly defeated: Mr. Roundell at Clitheroe, Mr. Brodrick at Woodstock, Sir George Young at Chippenham, and Mr. Godfrey Lushington at Abingdon. These men of high culture were all beaten by power and by money; and there were many other cases of "poor men of intellect" vanquished by "rich dullards," or (as Shakespeare would have put it) learned pates forced to duck to golden fools.

I have, ever since I could think, been a zealous advocate of the Ballot, and time has not diminished my zeal. It is ill-judged to expect more from the Ballot than it can accomplish. The Ballot cannot do everything, but it would greatly diminish the evils of bribery and undue influence. Of course bad men might sometimes thwart its beneficial operation, but that would not prove it to be

useless. There is much reason to hope that Ballot will, with the consent of both the great parties in the state, be the law of the land. A distinguished Conservative, Mr. Ward Hunt, the Chancellor of the Exchequer of Mr. Disraeli's Government, has drafted resolutions in qualified favour of the Ballot, in the House of Commons Committee. I must express my deep regret that Lord Hartington, the Chairman of the Committee, has in his report thrown doubt on the practicability of abolishing paid canvassing. If paid canvassing is not abolished, the operation of the Ballot will be impeded, and Ballot will not have a fair trial.

An argument which has been much used against the Ballot is this, that it would not be effective in small corrupt constituencies, like Bridgwater and Beverley, where practised electioneerers would be able to calculate the number wanted to make a majority, and where the election might be secured by the promise of a round sum to those known to be venal, if a certain candidate were elected. This at most would only show that there were cases in which unscrupulous men might, under certain circumstances, prevent the success of the Ballot; but these would only be a limited number of cases, while in a large majority of cases the Ballot would be successful. Now what might thus happen in small constituencies might equally happen in small districts or wards of large constituencies, particularly where parties are nearly balanced, by employment of paid canvassers assigned to the different wards. I trust that Lord Hartington's unfortunate scruples will not prevail, for there is a very great body of

opinion both on the evils of paid canvassing and on the practicability of getting rid of it, which I trust that the Committee and the Cabinet and the House of Commons will consider and act upon.

The Judges have expressed their opinions very strongly against paid canvassers.

Baron Martin initiated before the Committee the subject of prohibiting paid canvassers, and said: "A great many canvassers are persons who are, I expect, not the honestest people in the world, and not honest to the people who employ them, and I am satisfied that there are many persons employed as canvassers who readily bribe. I am satisfied that paid canvassers are people not to be trusted."

Mr. Justice Blackburn said: "I think myself that paid agents are a nuisance and an evil, and I wish that they were done away with. I strongly suspect that a great deal of the lavish expenditure, which people naturally assume is gone in corruption, is intercepted by paid agents. I think it highly possible that where a candidate has spent some 1,700*l.* or 1,800*l.* on an election, it would be found that where a hundred went in corrupt payments, many hundreds were intercepted by the canvassers and paid agents."

Mr. Bright, who was a member of the Committee, has, in a series of resolutions which he moved, rightly spoken of fees paid to legal agents as "scarcely distinguishable from bribery and other forms of corruption." Lord Hartington himself was not insensible to the magnitude of the evil which he is timid about trying to remedy. He says, in a passage of his draft report: "A system of canvassing which notoriously prevails in many, if not in most,

boroughs, especially in the smaller constituencies, is a system of working upon voters through private considerations, whether of interest, hope, or fear, for political purposes; and this system, in which undue influence in a modified form is used, is almost universally practised."

It is often said that the abolition of small constituencies would be a powerful remedy for corrupt practices,—would itself do much towards abolition of bribery and other corruption. I fear that this is by no means necessarily so. Large constituencies are divided into wards or districts; these are small and compassable; separate agents are employed for each; the subdivision gives facilities for the action of paid canvassers in each similar to those which they have collectively in a smaller undivided constituency; and where there is nearly an equal division of the two parties in a ward, it is the same advantage to agents and paid canvassers as in a small borough. The Committee of last year has produced much evidence to prove the corruption of municipal elections in very large boroughs. The Mayor of Nottingham said, that of nearly seven thousand voters, about one-third were always open to payment in municipal elections in that city. I need not tell you that the parliamentary and municipal franchises are now identical. The Mayor's was a sufficiently strong statement; but Mr. Joe Bradshaw, a town-councillor of Nottingham, said that he thought the proportion of venal voters were larger than a third. Of Liverpool it was said by a witness, that in his ward the municipal voters numbered 563, and that 70 per cent. of this number were always open to money. Another witness, Mr. William

Johnson, said that during seven years he had carefully watched the Liverpool municipal elections, and that with one or two exceptions in the north ward, they had been always altogether corrupt. Of Blackburn one witness said, that at a contested municipal election he thought 90 per cent. had a substantial reason for voting. Mr. James Briggs of Blackburn also said, that in his ward almost every man who voted received money for his vote; some, in fact, who had presented themselves to receive payment had astonished those who paid the money. We cannot then, we must not, throw the whole blame of corruption on small constituencies.

I may here mention that I was urged by Mr. Cobden, when I was many years ago a member of the House of Commons, to investigate the subject of corruption at municipal elections, with the view of bringing it before Parliament for a remedy. Circumstances prevented me from complying with Mr. Cobden's request and advice. A Manchester audience will appreciate the pride with which I refer to this proof of the early good opinion of one whose name is now a talisman for all reformers. I was then a member of the Parliament which was also Mr. Cobden's first Parliament. Known he then was, and honoured where known; but all England had not yet learned to appreciate him. He began his political career late in life, and it is wonderful with what rapidity he attained, in a few years, to world-wide celebrity; and having prematurely died, he is already canonized as one of England's best worthies and brightest illustrations.

The discoveries of the recent Election Commissions

have excited the horror of reformers, and the question is, What will be done in the next session of Parliament? But I remember that three years ago, in 1866, equal horror was excited by the similar discoveries in the boroughs of Totnes, Reigate, Great Yarmouth, and Lancaster; and we must not expect much. There is no strong tone against bribers. Notwithstanding all the corruption discovered at Great Yarmouth by the Commission, the two members who had succeeded through it had escaped from the fangs of the Election Committee, and had not been unseated. They were both Conservatives, supporters of Mr. Disraeli. A member rose early in the session of 1867, and seriously asked Mr. Disraeli how he proposed to deal with the two members who continued to sit, now that the Commission had laid bare the corruption through which they became members. Mr. Disraeli replied jocularly and with alacrity, that he thought them two excellent members, and should be sorry to miss them from the House. The reply of course raised a laugh. We are not likely to read of a similar reply from Mr. Gladstone, should he be similarly questioned. There are fit times for mirth, but a "merry descant on a nation's woes" is not seemly.

The Bridgwater and Beverley inquiries have elicited proofs of, to say the least, very dubious relations between corrupting candidates and the head election-agents of the Government and of Opposition. It is admitted that it is one of the duties of these agents, who take recognized rank in the two parties, to keep a register of boroughs and be ready to give information as to the sums required in different constituencies for securing elections. It is

astonishing to see the cool manner in which these London head election-agents receive information of large sums professedly necessary for carrying small boroughs, and never wonder, or suspect anything wrong.

The high-placed leaders of political parties should see that the gentlemen who serve them in the position filled by Mr. Drake or Mr. Spofforth should preserve themselves above suspicion. If local agents who dabble in corruption mistakenly address themselves to such gentlemen in the hope of pecuniary aid, or to get, through their instrumentality, candidates who will "bleed," those who are at head-quarters must be partly to blame for the mistake. There is a well-known triplet written by a lady for the warning of her sex which, with one alteration (*he* for *she* in the beginning of the second line), may be mentioned as a good rule for the head election-agents of the two great parties in the state:—

> "Let this strict maxim be my virtue's guide:
> He is to blame in part who has been tried;
> He comes too near who comes to be denied."

We may have much hope in this matter from Mr. Gladstone's fervour and comprehensive mode of dealing with public questions. Let us hope that there is a better time coming. I hope to see the Ballot enacted and paid canvassing abolished. There is no necessity for more than one election-agent, and he need not be a lawyer. Our respected Chairman [Mr. G. Wilson] would conduct an election better than any lawyer. Other measures for which popular opinion is waxing strong, and as to which I hope there will be no difficulty, are the abolition of

public nominations and declarations of the poll, which are in many places simply occasions of drunkenness and rioting; prohibition of committee-rooms and of meetings at public-houses, and the closing of public-houses on the day of polling. I trust there will be no difficulty in carrying these measures. Mr. Justice Willes has strongly recommended to the Committee that all refreshments given under any circumstances during one week before the election shall be illegal, and if given by a candidate or his agent shall upset the election. That would be an excellent enactment. If measures such as these are carried, we may indeed hope to see a new reign of electoral virtue; a parliamentary election may then be an affair of reason and not of riot, and virtue and order prevail where drunkenness and vice have so long been the lords of electoral misrule. If the Ballot becomes law, we may hope to see agricultural labourers and artisans of towns voting as free men, and not as serfs under landlords and superiors, while election-managers with loose consciences, and local attorneys who play the game of landlords in counties and make a trade of bribery in boroughs, will find their occupation gone, and the making of the House of Commons will be transferred from the county magnate's drawing-room and the attorney's office to the public hall and the market-place, and the whisperings of wire-pullers be drowned in the pure free voice of the people.

The English Constitution has from time to time been vaunted by ourselves and admired by foreigners as a marvel; but we must all see with shame that these

dreadful disclosures of corruption periodically made are a great disfigurement of its beauty, and a great reproach to its wisdom. Poets and philosophers have traced a divine influence in our polity and its origin. Shakespeare says—

> "There is a mystery in the soul of state
> Which is in operation more divine
> Than breath or pen can give expression to."

If our political constitution is a fabric of divine origin, should we not strive to prevent this thing divine of excellence and beauty from degenerating, like the ancient poet's imaginary monster, into fishiness, and, touching heaven as it does above, save it from trailing below in filth, nastiness, and corruption?

VI.

SCOTCH ELECTIONS AND THE PARLIAMENTARY ELECTIONS COMMITTEE OF 1868–9.

INTRODUCTORY NOTE.

THE Report of the Committee on Parliamentary and Municipal Elections of 1868, which Lord Hartington presided over, contained the following as to Scotland:—

"In Scotland, it is stated without contradiction that bribery is almost unknown. This is attributed in a great measure to the superior education of the Scotch people, and partly to the fact that, the constituencies being comparatively new, there exists no corrupt class, long familiar with the traditions of bribery, similar to that which in many English and Irish boroughs has not only retained in itself, but spread through the constituency, the desire for corrupt expenditure."

I have no desire to draw a bill of indictment against Scotland: but this paragraph, more by incompleteness than by misstatement, gives an incorrect picture of election morality in Scotland. That sinks of inveterate electoral corruption, like some notorious English and Irish constituencies, do not exist in Scotland, and that coarse money bribery is scarce, is happily true. But it is also true that, under a widely prevailing and strongly established system of paid canvassing, conducted chiefly by

solicitors, called writers in Scotland, the corrupt practices of treating and undue influence are rife in contested borough elections: and I can say from my own experience that actual bribery in small sums is not unknown. Scotland is not free from the infirmity of human nature, which in England and Ireland produces interference of masters with workmen. The paid canvassing is a gigantic evil in Scotch elections, of which the Parliamentary Committee has taken no notice in special reference to Scotland.

The Committee have admitted the existence of intimidation in Scotch counties. They were unfortunately inspired to select as chief witness the Editor of the *Scotsman*, Mr. Russel, who was not more eager to find fault with elections in Scotch counties, where Conservatives are powerful, than to give a flattering account of elections in Scotch burghs, where Conservatives make little show, and where the fights are generally between Liberals and Liberals.

A truer account of the state of things in Scotch burgh elections appeared in the *Star* newspaper of October 4, 1869, while the *Star* was edited by that very able writer and independent politician, Mr. John Morley, now the Editor of the *Fortnightly Review*, in a letter signed "A True Scot." The writer of this letter was the Rev. W. H. Wylie, a Baptist minister, Scotsman by birth, who was residing in Scotland during the whole of the general election campaign of 1868, and was particularly conversant with the elections in the West of Scotland, of which Mr. Russel confesses his ignorance. After describing the intimidation in Scotch counties, as to which Mr. G. Young, the present Lord Advocate, is a powerful witness, and which the Editor of the *Scotsman* was eager

to proclaim and denounce, the "True Scot" proceeds to speak of Scotch burghs :—

"If excessively large expenditure of money by a candidate is any evidence of an impure election, then many of the Scotch burghs stand condemned. At Dundee, Mr. Guthrie and Mr. Armitstead spent 8,352*l.*; at Falkirk, Mr. Merry, in a contest of only a few days' duration, expended 2,885*l.*; at Stirling, Mr. Henry Campbell spent 2,543*l.* against his unsuccessful opponent's 1,863*l.*; at Glasgow, the vain attempt of Sir George Campbell to win the third seat was made at an expense of 5,143*l.*; while Mr. Bouverie retained his hold of Kilmarnock by spending 1,616*l.* Perhaps the worst case of all, comparatively, was that of the burgh of Greenock, won by the Provost of the town, who, at the outset of his struggle for the parliamentary prize, avowed his intention to 'bleed freely' in order to win, and who was as good, or as bad, as his word, for the official account shows his expenses to have been 2,801*l.*—a pound a head for each voter—or more, comparatively, than the expenditure at Bradford, which Baron Martin stigmatized as 'iniquitous,' and on account of which Mr. Ripley was most righteously unseated. The petition trial at Greenock, which extended over five days, presents a most gloomy picture of political immorality; and any one who reads the judgment delivered by Lord Barcaple must wonder why his lordship did not unseat Mr. Grieve. That gentlemen, it was proved, had employed nearly all the solicitors and several accountants in the town as paid canvassers; and the sums admitted to have been paid to these lawyers for their services in going about influencing voters amounted to nearly 2,000*l.* The evidence revealed modes of working on the part of these paid legal agents as unscrupulous and immoral as anything that has transpired in the worst English borough. All their acquaintance, gained professionally, with the private business and family affairs of their neighbours, was utilized by them on behalf of their employers, to coerce the timid and to make more

resolute men remain at least neutral; and so effectually was their work done that Mr. Morton, the present chief magistrate of the town, solemnly asserted his belief before Lord Barcaple that a thousand electors had been induced to violate pledges which they had most willingly made at the commencement of the struggle. So dead was the moral sense of many, that even a leading Free Church clergyman of the town, a Rev. Mr. Stark, published a letter, in which he treated the employment of all the lawyers in the capacity of paid agents as an exceedingly good joke, and expressed his warm admiration of the candidate who had the astuteness and the cash to carry out the plan. To do justice to the Scotch Judge who presided at the trial, he had more respect for decency than the minister of religion exhibited. His lordship most cordially condemned the employment of the monstrous regiment of paid legal canvassers as illegitimate, and said it must not be repeated.

"It would be easy to accumulate thousands of facts to show that, in spite of her intelligence, Scotland is very far from being without electoral corruption, much of it more grievous and deplorable in one sense than the gross bribery and treating which abound in certain English boroughs, inasmuch as the Scotch system involves the coercion and turning aside from the path of duty of men who have education, intelligence, convictions, and who in very many instances are susceptible of the anguish which so seized the spirit of poor Lord Glenalmond that he sought deliverance by self-destruction."

I was the losing candidate and petitioner for Greenock in the general election of 1868. The flippancy and ignorance of Mr. Russel, in his evidence, can hardly be better tested than by his statement as to this petition. "The Judge threw it out; it was some very small charge about whisky:" this is Mr. Russel's account of it. Lord Barcaple, the Judge, though he did not upset the election, did not take so slight

a view of the petition. The following is an extract from his judgment:—

"I think that the present discussion is a very serious one indeed. I have felt it to be so throughout, and I have felt some matters connected with it to be of extreme difficulty. The first that we heard of this election in the evidence was a letter from the sitting Member, in which, certainly, an ill-advised and unfortunate expression was used. He said, writing to his correspondent, 'If I go in I must do it properly to win, and I suppose that Christie is not prepared to bleed freely.' Now, I do not in the least degree assume (very far from it indeed), that that imported any intention on the part of Mr. Grieve to spend any money any illegal way. That is not the thing, and I do not believe it did; but it did import an intention to come into the field with money ready to be spent, and that freely, for the purpose of overcoming an opponent and gaining the election. I cannot imagine a worse key-note to be struck at the commencement of the contest than this. If it comes out, it will certainly be very unfortunate for the candidate; and whether it comes out or not, if the election is conducted upon the footing which that seems to indicate, it will be extremely liable to give rise, at least, to suspicions, whether well-founded or not, as to how the election is truly conducted and is gained.

"Now it is quite unquestionable, I think, that this determination was carried out. There were employed for Mr. Grieve, besides his principal agent, Mr. King, eleven ward agents, as they are called; but that is, as every person who knows Greenock must be perfectly well aware, not an agent for each of eleven wards, for there are only five wards, but three agents for the first ward, and two agents for each of the rest. The result of that was, that a sum of 1,715*l.* 10*s.* was paid to those eleven agents and Mr. King,—Mr. King's bill, however, being only a hundred guineas. I am excluding at present all charges for outlay and clerks; but for fees, for remuneration, there were bills

sent in to the amount of 1,715*l.* 10*s.* I think, if it stood alone, and it does not stand alone, the charges of that sort would be a very large sum indeed to expend in this way in an election of this kind. It is true that the election lasted for a long period of time, and that probably increased the expense. But then the expense was being carried on upon the footing of employing so very large a proportion of the law agents in this place, subject to the payment of a fee for this kind of work, and the charge I observe is quite in general terms, 'To fee for acting as agent in Parliamentary Election.' I think that is the way in which the thing is stated. In the case before me, it is 157*l.* 10*s.* that is charged. Then, in addition to those agents, three of whom were thought necessary for one ward, and two for each of the rest, I find there were two accountants who had charges somewhat of the same sort. One of them is an account sent in in these terms: 'June 13th to November 16th, time and trouble employed between those dates in conducting your canvass, 90*l.*' Now, I must say that I think that that is a very strong course of expenditure, and that it was not likely that an election could be conducted upon that footing without its attracting attention, and by attracting the attention of opponents creating a considerable tendency to look with suspicion at the whole expenditure throughout the election. I do not say that in itself it is a ground upon which an election can be set aside. Possibly, however, I think that in a strong and aggravated case it could. These gentlemen, no doubt, are not paid to vote, but in consequence of their being paid they must not vote, and I do not advise the experiment to be tried to any much greater extent; at least I would rather hope that it will not be again tried to this extent, for I am quite satisfied that it is an unfortunate course of procedure."

In a case of bribery which was brought forward, the Judge, after announcing that he would not unseat the

member upon it said: "I can conceive other persons taking a very different view of the matter. I think it is a point that balances very nicely indeed: and I have felt, I confess, some difficulty in deciding it, but the decision I have announced is that to which, after much consideration, I have come."

I have made these references to Lord Barcaple's judgment in the Greenock case in order to furnish some truth as to a Scotch burgh election, and give an example of the untrustworthiness of the evidence of Mr. Russel, editor of the *Scotsman*.

It would be much more agreeable to me, if truth allowed me to join in the Committee's complimentary estimate of the purity of Scotch elections; and if I could follow them in attributing the alleged great superiority to superior education. But truth must conquer partiality; and the best friends of Scotland will not wish to stifle or repress needed improvement by exaggerated praise. I am not so sure about the correctness of the current boasts of Scotch education. A very careful writer, with special opportunities of knowledge, has lately exhibited to the public some startling statistics of education among the Scotch lower classes.[1] He publishes official tables showing the state of knowledge as to reading and writing, of all the criminals who entered the Scotch prisons during each of the six years 1863—1868. I will give the statistics for the first and last years of the six. In 1863, of a total of 22,452 prisoners, 4,457 could not read, and 10,415 could not write; 12,597 could read with difficulty, 542 could

1 "The Public Houses (Scotland) Acts: their Success and Failure (with important Statistical Tables, &c.)," by John Welsh, Superintendent of Police, Perth. Edinburgh: Menzies and Co., 1869.

sign name merely, and 9,477 could write with difficulty; 5,398 only could read well, and 2,018 only write well. In 1868, the total of prisoners was 26,843; and 5,539 could not read, and 11,914 could not write; 14,187 could read with difficulty, 602 could sign name merely, and 12,352 could write with difficulty; 7,117 could read well, and 1,975 write well. Mr. Welsh, the author whom I am quoting, attributes this ignorance and crime to drink: and what Scotchmen have called the "national vice" of Scotland may be expected to appear in parliamentary elections, and whisky does play a prominent part on election-days.

It was so in Greenock on the election-day of 1868, and some evidence was given in proof. But the Senior Bailie of the burgh, Bailie John Hunter, was brought forward on behalf of the sitting member to swear that on the week of the election he took his turn as presiding magistrate, and was struck with the small number of offences which came that week before the bench, notwithstanding the excitement of the election, and that he had at the time expressed his surprise to some of his friends. The Judge naturally attached great weight to this evidence, and thus expressed himself in delivering his judgment:—

"Then, though it does not fall under my duty to report upon it, I may, in passing, observe that I am extremely glad to find, in the course of the evidence, that some appearances, which there were at one time, as if there had been some extraordinary amount of dissipation connected with the election, and a great and unusual number of drunken people in the streets, did, when the matter came to be fairly investigated, die away altogether. It was stated, upon what seemed to be competent authority, that rather the reverse was the case. It is very probable, I think, that Bailie Hunter, who certainly was in a position

to judge very well of the matter in some respects, as he left town rather early in the afternoon may not have seen some of the excitement which prevailed, and not unnaturally prevailed; but I must take it upon the whole of the evidence now that the instances which we have had spoken of (and some of them are very important as matters of evidence as regards some of the charges of instances of individual intoxication, or of three or four intoxicated men being seen at one time), were not indicative of the general state of the population, even of the working classes of Greenock upon that day."

But Bailie Hunter had discovered, after giving his evidence, and before the delivery of Lord Barcaple's judgment, that he had made a mistake in swearing that he was the presiding magistrate that week, and that he had at that time observed, or related to any one, the paucity of offences which drink might generate. He did not attend the bench that week. All the evidence given on oath by Bailie Hunter, which made the Judge dismiss as valueless the contrary evidence, was a hallucination of the Bailie. He was thinking of the municipal elections week, three weeks later. The Bailie, when he found out his mistake, was anxious to go again into the witness-box and publicly correct the error, but the sitting member's counsel, Mr. Rutherford Clark, the present Scotch Solicitor-General, whom he consulted, thought it his duty to prevent the Bailie from telling the Judge the truth. Mr. Rutherford Clark is therefore responsible for having allowed the Judge to make an important statement as to the quiet and sobriety of the election, resting on an entire mistake made known to him in time to save the Judge from his involuntary error. It is not likely that the error affected the question of the seat, but Lord Barcaple was

inveigled into an erroneous statement which has been quoted as high authority for orderly conduct of an impugned Scotch burgh election.

The following paper appeared in the shape of two letters in the *Edinburgh Daily Review* in December 1869, while it was edited by Mr. Henry Kingsley.

SCOTCH ELECTIONS, ETC.

I PROPOSE to review the evidence on Scotch elections given in the last session of Parliament before the Parliamentary and Municipal Elections Committee.

It should cause surprise, and it is certainly a matter of regret, that there was only one Scotch member, Mr. Dalglish, on this important Committee, numbering in all twenty-three.

It is, doubtless, owing chiefly to this small representation of Scotland in the Committee that the evidence taken as to Scotch elections is so small, fragmentary, and unsatisfactory. There were indeed only two witnesses whose evidence is of primary or substantial character: Mr. A. Russel, who, being asked his profession, described himself "Editor and part proprietor of the *Scotsman*," and Mr. J. H. M'Gowan, writer in Dumfries, who in the last general election was agent for Mr. Noel in the Dumfries burghs, and was agent for Sir Sydney Waterlow in the county in his second unsuccessful contest in March 1869. All the other Scotch witnesses came to

speak to points, chiefly single points of fact, raised in the evidence of those two witnesses. Mr. Otto, Lord Lothian's factor, and Mr. W. Scott, a tenant of Lord Lothian, whose lease being about to expire in 1870 is not to be renewed, spoke to a statement of Mr. Russel about the refusal to renew this lease in which it is clear that Lord Lothian was greatly misrepresented. Mr. J. Kennedy, a tenant-farmer of Dumfriesshire, Captain Yorstoun, a Dumfriesshire resident, and Provost Harkness, of Dumfries, contradicted points in Mr. M'Gowan's valuable evidence. The most careful and conscientious may fall into error, and it may be admitted that these three gentlemen have pointed out some errors in some of Mr. M'Gowan's specific statements, but much that is valuable remains uncontradicted, and all indeed that is of substantial value in the Scotch evidence taken by the Committee is in Mr. M'Gowan's evidence.

Mr. M'Gowan spoke from special knowledge acquired by practical experience in elections in Dumfries county and burghs, and it is this which gives value to his evidence. Mr. Russel appears to have been called as a representative of all Scotland, and his information is certainly as slight as it is general.

As Mr. Russel was the first witness, I will speak of him first. He thinks that "corruption is almost entirely unknown in a pecuniary form, and certainly it is not on the increase." In municipal elections he "never heard of a single case ever being suspected in any burgh." As to undue influence exercised by customers on tradesmen, he "would say that the shopkeepers are rather masters of the situation now in the towns." There has been only one

case of unseating on the score of corruption in Scotland since 1832 [the Falkirk Burghs, 1857]. There was only one petition charging corruption that he can remember after the general election of last year. "That was at Greenock, but the Judge threw it out; it was some very small charge about whisky." Voters in burghs are apt to be afraid of losing custom or employment, "but it is generally their own idea, I think, rather than any threat, in the burghs." He does not know very much more about the city of Edinburgh elections than others. "There are plenty of people to work them in Edinburgh without me, but I know a good deal about them. I think, although they have lately gone against the way I wished, they are entirely free from anything like corruption. Of course, importunity, deception, and things like that may have been brought to bear, but not corruption certainly." He would not at all admit the absence of intimidation in counties. In the burghs "there is a little, but it is getting very small now." He thinks this is because for twenty years there have been no contests between political parties in burghs, but he admits that there have been plenty of contests between individuals. He scarcely thinks, however, that the municipal inhabitants in burghs take as warm a part in contests between individuals as they would if they turned on politics. He thinks intimidation decidedly on the decrease in all burghs, large or small, especially with the upper classes. But not so in counties; he has had a good deal of experience in county elections; and in the counties "there is a great deal of intimidation in the milder form of influence or

inducements by favours, and a great deal also by threats." Tenant-farmers, as the lease approaches a close, are open to a good deal of pressure. He would like to see the Ballot introduced. He thinks then "there would be less canvassing, especially in the counties; it is very irritating, the canvassing, especially by ladies." The new small county voters introduced by the Reform Act "were most tremendously squeezed at the last election, especially by ladies. . . . There was tremendous pressure brought upon them." There were threats by ladies of withdrawing custom, and threats carried out when the small tradesmen voted against the ladies' wishes. "There were hundreds of cases of that sort." It is chiefly on account of what thus takes place in Scotch counties that he desires the Ballot; but he thinks the burghs would be better of it too. He does not know what may happen with the new constituencies. "There is a new class that has not been well tried yet, and the practice may come of employers coercing their workmen. We have not got that yet, but we have had only one election. We can hardly say that we have had a political contest in the burghs." The chief advantage of the Ballot would be "its making the elections work smoothly, and there would be less of that irritating canvassing and hanging on people day after day." A countess would then not sit for half a day with a level-crossing keeper, trying to get his vote. He has had experience of elections "all over Scotland, except a little of the west, which I do not know much about." He does not think there would be a balance of advantage in the abolition of public nominations. "It is perhaps a little bit of

sentimentality, but I do not like the idea of proceeding on the hypothesis that people cannot meet together for an important political purpose without rioting or otherwise disgracing themselves. I do not think of an election as something shocking or offensive to view, like an execution." One cause of the want of disturbance at nominations in Scotland is "that you cannot hire a mob in Scotland, and, as I said before, the mob is all on one side." In answer to Mr. Gathorne Hardy, the witness admitted that in Perthshire and Fifeshire there were some mobs; "they were not very serious, but they were ugly." There is "a very vile habit" of spitting on adverse voters; the mob does this, "just the mob." The ministers of religion use a good deal of influence, "not like Ireland or even England, but there is a good deal. They do not canvass the people, but they harangue a little." They use their pulpits "in favour of particular religious views. I do not think that they would name a candidate. It is very slight, and on both sides. I may mention I scarcely heard of it till the last election. I must say that I think the clergy of the Established Church were very shy of doing it last time: less than before, I think." The following questions and answers I extract entire; Mr. Fawcett was questioner:—

"Are any elections in Scotland very expensive?—Yes, there have been some very expensive ones, and some very cheap ones.

"What is one of the chief items in the expense; is it paid canvassers?—No, I do not think it is; conveyance in the counties is a very expensive item.

"Is it customary in Scotland to have paid agents?—Yes.

"Have you ever thought it would be well to place some restrictions on the employment of paid agents?—I would rather have restrictions on canvassing than on paid agents.

"You would be in favour of restrictions on canvassing?—If it could be stopped, but I do not know how it could be; it is a tremendous evil for both sides.

"It is not at all usual to spend much upon treating in Scotland, is it?—No, it is quite unusual.

"And there is no increase of drunkenness either on the nomination or the polling day?—Not very frequently; perhaps there may be a little in some counties."

The witness further said with reference to expenses of elections:—

"I may perhaps be misleading the Committee about expenses; I do not know what you call an expensive election. The county of Mid-Lothian, where about 2,000 voters polled, cost Lord Dalkeith about 4,000*l.*—3*l.* a vote for the votes he polled. I do not know whether that is considered expensive or not."

What innocence, ignorance, and unconcern in a witness picked out of all Scotland to instruct the Committee on Scotch elections! I have given a faithful summary of all that is material in Mr. Russel's evidence. Intimidation in counties, and the ladies very worrying; but nothing wrong in burghs. It is true that the witness has no special knowledge of any town, except Edinburgh, of

which he says he does not know very much more than of others; and he confesses that he does not know much about the west. Paid canvassing, he chooses to say, is not a chief item of expense. He would rather restrict canvassing than paid agents, but he does not see how canvassing is to be stopped; and as it would be easy to restrict paid agents, it is difficult to see why he would work directly against canvassing, as to which he does not see how it is to be stopped. As to expensiveness of elections, some are expensive and some are cheap; but he does not know what "expensive" is; 4,000*l.* for one candidate for a county where 2,000 voters polled, or 3*l.* a head for the candidate's own voters, seems nothing to him. He would like to see the Ballot, as a protection against undue influences of landlords, factors, clergymen, and above all ladies in counties. It necessarily strikes one as a wonderful variety of human nature that town ladies are so harmless when county ladies are so mischievous. They who were instrumental in producing Mr. Russel as the chief witness on Scotch elections would hardly have been aware of the idiosyncrasy against county ladies which has evidently absorbed his powers of observation and thought. I am far from undervaluing the importance of protecting him and other modest and timid men from the terrors or temptations of females; but I think that the Ballot can be recommended on more serious and stronger grounds, and that one who is not so morbidly afraid of being squeezed by a lady or of half a day's conversation with a countess may see in the expensiveness of Scotch elections, which Mr. Russel

seems to think of no importance, and in the "tremendous" evil of paid agents which Mr. Russel ignores, but to characterize which I borrow his favourite epithet, matters demanding much more serious attention than any spoken of in this witness's flippant and unsatisfactory evidence.

The evidence given by Mr. J. H. M'Gowan, writer in Dumfries, before the Committee, is that of a man who really knows something, and contains valuable solid matter. I need not dwell on that part of his evidence which relates to undue influence in the Dumfries county contests. The prevalence of undue influence in the Scotch county contests of 1868 may be taken as undisputed. Dumfriesshire and Roxburghshire were almost exclusively spoken of before the Committee. The present Lord Advocate spoke out strongly and deliberately soon after the general election, as to landlord intimidation in Wigtownshire; and like accusations are rife as to Ayrshire, Buteshire, and Perthshire. The Conservatives—the losing party in Scotland—fought in most of the county fights. In the cities and burghs the contests were in almost all cases between Liberals. Mr. Russel's assertion that these contests between Liberals are less keen than contests between members of opposite political parties is contrary to all the facts, and to human nature. The exceeding keenness of all the many contests between Liberals in cities and burghs is notorious. There seems unfairness, not to say pharisaical hypocrisy, in gloating over Conservative misdeeds in counties, and shutting the eyes to Liberal malpractices in burghs. Corrupt practices at elections (and this term includes undue influence as well as bribery)

are not, and have never been, confined to one political party.

The Committee, by calling Mr. M'Gowan, obtained insight into one Scotch burgh constituency, and it is much to be regretted that the Committee did not call witnesses capable of giving them special and reliable information as to other towns. There were fierce contests in Glasgow, Dundee, Leith, Paisley, Greenock, and the Kilmarnock, Ayr, Stirling, Wick and Wigtown burghs. Why no inquiry in any of these cases? A pamphlet by Mr. Chadwick, a defeated candidate in the Kilmarnock burghs, suggested much for inquiry. Lord Barcaple's judgment in the case of the Greenock petition, though affirming the validity of the election, was also an excellent brief for an inquiring Committee, and any one who has read that judgment will know that it contains many grave strictures on the mode in which the confirmed sitting member's election was conducted, and that Mr. A. Russel's account of the petition, "It was some very small charge about whisky," is as misleading as most parts of his evidence.

On the subject of treating, Mr. M'Gowan stated as follows:—"That he had been engaged in several of the previous elections in the burghs, and at the election of 1865 had had charge of one of the wards in Mr. Ewart's interest; that his instructions were to hold ward committee meetings nightly in one or other small public-house, and that he believed the other ward agents had like instructions; that business at these meetings was soon got through, and then drink was ordered in and freely supplied to all comers, even until after the legal

hour; that was practised extensively for three or four different elections in Dumfries by both parties, and it was most disgusting." In the election of 1868, Mr. M'Gowan, acting for Mr. Noel, was instructed by this candidate to spend no money in treating, and to hold no committee meetings in public-houses. Mr. Noel firmly said that he would rather lose the election than permit one or the other. In consequence of Mr. Noel's determination, Mr. M'Gowan says that there was no treating on Mr. Jardine's side; and, pointedly asked to what he attributed the cessation of treating in the Dumfries burghs in 1868, Mr. M'Gowan said: "I attribute it entirely to the views of my own client, giving me instructions to abstain from anything of the kind, and that exercised a salutary effect on the other candidate, who was delighted to give up the old system. Treating," he added, "is illegal, but we should have still continued to practise it unless we had been ordered to the contrary. On both sides it was carried on till the last general election." Provost Harkness, of Dumfries, who had been principal agent for Mr. Ewart in 1865, and under whom, therefore, Mr. M'Gowan acted, went before the Committee to pick holes in Mr. M'Gowan's evidence, but contradicted only the statement that there were nightly ward meetings in each ward. The systematic treating he did not deny. Does any one doubt that similar evidence would have been forthcoming from other burghs to contradict Mr. Russel's audacious statement that expenditure on treating is very unusual in Scotch burgh elections? Or will any one doubt, that treating would not have been practised in the interest of the late

Mr. Ewart, of all men—one of the most delicate-minded and public-spirited of men—if it had not been an established and stereotyped mode of conducting elections by agents in Scotch burghs?

Next, as to paid agents: Mr. M'Gowan speaks of them both in the county and in the burghs. In the county, he says, "There was a great deal of influence used by bank agents and lawyers, a most disgusting mode of using influence, and derogatory to all professional dignity." From twelve to fifteen lawyers and bank agents were, he says, on the Conservative side; they received fees from eighty to one hundred guineas; "they were paid for the influence they could exercise on their clients more than for any work they could have done in canvassing." There being six districts of the county, with one polling place for each, the Conservative candidate had fifteen agents, and there were five on the Liberal side. But it is fair to add, from Mr. J. Kennedy's evidence, that Sir Sydney Waterlow, the Liberal candidate, took down a staff of professional men from London, so that he might therefore have required fewer agents of the county. But, severely cross-examined, Mr. M'Gowan persisted in saying of Major Walker's fifteen agents, "That they did no work sufficient to justify so large an expenditure, and that they were paid for their influence more than for what they did."

So much for the county. As to the Dumfries burghs, Mr. M'Gowan said that Mr. Jardine, who gained the election, had thirteen paid agents, receiving each of them sums averaging from 200*l.* to 300*l.*, in a constituency of 2,379 voters; that in three of the six burghs, numbering 1,356 of

the 2,379, there were as many as nine paid agents, while Mr. M'Gowan was sole agent on Mr. Noel's side. "I think," said Mr. M'Gowan, "that the Ballot is insufficient in itself, unless something is done to put a stop to canvassing by factors, and lawyers, and bank agents, who get a fee in consideration of the influence that they bring to bear. I should like to see canvassing entirely done away with. It was done entirely away with on our side in the burghs. I never saw it done before, but it was done in our case. I think that if the Ballot were introduced, and canvassing were done away with, we should attain to almost absolute purity."

Mr. Noel was a perfect stranger in the burghs: "He had never been in the town before, and knew nobody." Mr. Jardine is a territorial magnate of the county, and has much property in one of the burghs. What need can there be for thirteen agents, paid with large fees, to indoctrinate the burgh voters in the superior merits of the local candidate? The almost entire absence of money bribery in Scotch elections is ascribed by both Mr. Russel and Mr. M'Gowan to the spread of education. Why do these educated voters need so many writers, so highly paid, for dry-nurses? The work of these writers, says Mr. M'Gowan, with an honourable pride in his profession, "is a most disgusting mode of using influence, and derogatory to all professional dignity."

But Mr. Russel told the Committee that he did not think paid canvassing was a chief item in the expense of Scotch elections. I believe that there has been no Parliamentary publication of the returned expenses of elec-

tions for the general election of 1868. I go back to the published returns for the general election of 1865, and give some information from them to show the value of Mr. Russel's opinion. I find that in the Dumfries burghs in 1865, Mr. Ewart paid to agents, exclusive of their travelling expenses, 782*l.* 18*s.* 9*d.* out of a total expenditure of 1,204*l.* 3*s.* 4*d.*; and that his opponent, Colonel Kennedy, paid 443*l.* 10*s.* to agents, out of a total of 730*l.* 15*s.* 6*d.* I find that in the Ayr burghs, Mr. Craufurd's payment for agency and disbursements was 311*l.* 15*s.*, out of a total of 722*l.* 19*s.* 4*d.*; while his opponent, Mr. Oswald, paid 1,090*l.* to agents, out of a total of 1,686*l.* 13*s.* 3*d.*[1] I find that in Glasgow, Mr. Graham paid 1,936*l.* 19*s.* to agents, out of a total expenditure of 3,803*l.* 5*s.* 3*d.*; Mr. Dalglish 329*l.* 2*s.* 9*d.* to agents, out of a total of 1,506*l.* 7*s.* 8*d.*; and Mr. Ramsay 2,032*l.* 8*s.* 6*d.* out of a total of 3,143*l.* 10*s.* 11*d.* Passing to the counties, I find that in Dumbartonshire Mr. Smollett paid 826*l.* 16*s.* 10*d.* to agents and canvassers, out of a total of 1,728*l.* 13*s.*; and Mr. Stirling, 680*l.* 8*s.* 10*d.* to agents, out of a total of 1,490*l.* 8*s.* 11*d.* In Inverness-shire, Mr. H. Baillie paid 1,715*l.* 6*s.* 6*d.* to agents, out of 2,894*l.* 4*s.* 10*d.* total; and his opponent, Sir G. M. Grant, 1,275*l.* 11*s.* 7*d.* out of a total of 2,146*l.* 4*s.* 10*d.* In Kincardineshire, Mr. Nicol paid 1,011*l.* 17*s.* 10*d.* to agents, out of a total of 2,197*l.* 7*s.* 7*d.*; and his opponent, Sir Thomas

[1] I am informed by a gentleman who is intimately acquainted with the Ayr burghs that the Liberal opposition to the present Liberal member has invariably proceeded from the local writers, who are discontented with a representative who has steadily refused to employ them as paid agents. Mr. Craufurd's expenses in this direction have always been much less than those of other Scotch members.

Gladstone, 910*l.* 14*s.* 2*d.*, out of a total of 1,625*l.* 10*s.* 4*d.* And in Renfrewshire, Captain Speirs paid to agents 2,588*l.* 10*s.* 3*d.* out of a total of 4,440*l.*; and his opponent, Sir Michael Shaw Stewart, 2,644*l.* 8*s.* 5*d.* to agents, out of a total of 4,375*l.* 7*s.* 7*d.*

It appears, then, that paid canvassing, after all, does make a chief item in the expenses of Scotch elections. It is little creditable to the editor of a Liberal paper, the *Scotsman*, to have gone before a Parliamentary Committee to state what is so far from truth, and throw his shield over a mode of conducting Scotch elections by systematic paid canvassing, which involves corrupt influences, and, being principally practised by writers, brings discredit on an honourable profession.

THE END.

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